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THIRD REVISED EIGHTEENTH SUPPLEMENT TO THE EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES DECLARING THE EXISTENCE OF A LOCAL EMERGENCY

WHEREAS international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

WHEREAS, on March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for broader spread of COVID-19; and

WHEREAS, on March 12, 2020, in response to social distancing guidance issued by the Centers for Disease Control and Prevention, the California Department of Public Health, and the Los Angeles County Department of Public Health, the City of Santa Monica (“the City”) cancelled all social gatherings (events, activities, programs, and gatherings) in City facilities that were scheduled to occur through permit or license between March 12, 2020, and March 31, 2020, absent a persuasive showing by the permittee or licensee that the gathering could take place in accordance with the guidance and directives of public health authorities; and

WHEREAS, on March 12, 2020, in response to social distancing guidance issued by the Centers for Disease Control and Prevention, the California Department of Public Health, and the Los Angeles County Department of Public Health, and to protect the health and safety of the City workforce, the City announced that Santa Monica City Hall would be closed to the public and open only to City employees from March 16, 2020, to March 31, 2020; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 13, 2020, the City Manager, in his role as the Director of Emergency Services, (“Director of Emergency Services”) proclaimed the existence of a local emergency pursuant to Chapter 2.16 of the Santa Monica Municipal Code to ensure the availability of mutual aid and an effective the City’s response to the novel coronavirus (“COVID-19”) and this local emergency was restated on March 14, 2020, through a revised declaration of local emergency to ensure compliance with all digital signature requirements; and

WHEREAS, on March 14, 2020, the Director of Emergency Services issued a first supplemental emergency order placing a temporary moratorium on evictions for non-payment of rent and temporarily suspending (a) the discontinuation or shut off of water service for residents and businesses in the City for non-payment of water and sewer bills; (b) the imposition of late payment penalties or fees for delinquent water and/or sewer bills; and (c) the imposition of late payment penalties or fees for parking violations; and

WHEREAS, on March 15, 2020, the Director of Emergency Services issued a second supplemental emergency order temporarily closing the Santa Monica Pier to the general public; and

WHEREAS, on March 16, 2020, the Los Angeles County Department of Public Health issued a Health Officer Order for the Control of COVID-19 temporarily prohibiting group events of 50 or more people, requiring certain social distancing measures, and ordering the closure of certain businesses; and

WHEREAS, on March 16, 2020, the Director of Emergency Services issued a third supplemental emergency order that ordered the temporary closure of bars and nightclubs that do not serve food, movie theaters and entertainment venues, bowling alleys and arcades, gyms and fitness centers, and non-medical physical health and beauty businesses; and temporarily prohibited restaurants, bars, and retail food facilities from serving food on-premises; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, suspending any and all provisions of state law that would preempt or otherwise restrict a local government’s exercise of its police powers to impose substantive limitations on residential and commercial evictions with respect to COVID19-related rent payment issues; and

WHEREAS, on March 17, 2020, the Director of Emergency Services issued a Revised Fourth Supplement to the Executive Order to permit public safety facilities, hospitals, clinics, and emergency shelters in all zoning districts and allow the Director of the Department of Planning and Community Development or designee to waive development standards, design review, parking and access requirements, and sign standards related to such uses; to permit limited service and take-out restaurant uses in any zoning district that allows full-service restaurants; to allow drive-through facilities for clinics, convenience markets, farmers markets, general markets, hospitals, pharmacies, and restaurants; to suspend planning deadlines and automatic approvals; to extend interim zoning ordinances now in effect; to direct that street sweeping not be conducted unless essential for public health and safety and suspend parking citations related thereto; to suspend preferential parking rules; to suspend certain regulations relating to the operation of oversize vehicles; and to suspend Breeze bike share fees; and

WHEREAS, on March 17, 2020, the Governor of the State of California issued Executive Order N-29-20 which, among other things, amended Paragraph 11 of earlier Executive Order N-25-20 to suspend and waive certain provisions of state and local law, including but not limited to those provisions in the Bagley-Keene Act and the Brown Act related to the notice and accessibility requirements for the conduct of public meetings where the physical presence of public attendees or members of the public body seeking to meet are impliedly or expressly required; and

WHEREAS, on March 18, 2020, the Director of Emergency Services issued a Revised First Supplement to the Executive Order of the Director of Emergency Services implementing eviction protections for residential and commercial tenants and suspending removals of rental property from the market under the Ellis Act; and

WHEREAS, on March 18, 2020, the Director of Emergency Services issued a Revised Fifth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency implementing a rear-door boarding policy for all Big Blue Bus (BBB) customers, with the exception of Americans with Disabilities Act customers traveling in mobility devices; suspending all passenger fares on the BBB; suspending discontinuation or shut-off of water services for residents and businesses based on non-payment of water or sewer bills; suspending late payment penalties for (a) water and/or sewer bills; (b) parking citations; (c) refuse and recycling collection bills; (d) Certified Unified Program Agency (CUPA) charges; (e) Fire Prevention inspection charges; (f) Transient Occupancy Taxes; (g) Utility Users Taxes; and (h) Parking Facility Taxes; suspending parking restrictions and limitations in many City parking lots, parking zones, and parking spaces; and suspending penalty assessments related to business licenses and business improvement district assessments; and

WHEREAS, on March 19, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Revised First, Second, Third, Revised Fourth, and Revised Fifth Supplements thereto, and resolved that the proclamation and the aforementioned Supplements shall be operative and in effect through April 30, 2020; and

WHEREAS, on March 19, 2020, the Governor of the State of California issued Executive Order N-33-20 directing all residents of the State of California to heed directives issued by the State Health Officer on the same date instructing all Californians to stay home except as needed to maintain continuity of operations of the federal critical infrastructure sectors; and

WHEREAS, on March 19, 2020, the Los Angeles County Department of Public Health issued an enhanced Health Officer Order, the Safer at Home Order for Control of COVID-19, amending and superseding its March 16, 2020, Order, closing all nonessential businesses, and limiting gatherings to 9 people or less; and

WHEREAS, on March 20, 2020, the Director of Emergency Services issued a Sixth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency suspending labor negotiations through April 30, 2020, so that

the City may assess the financial impacts of COVID-19 prior to engaging in collective bargaining, and suspending various human resources processes in order to decrease in-person meetings and enable effective emergency response, including suspending requirements associated with the administration of competitive examinations and the appointment of individuals from eligibility lists; suspending certain requirements and minimum qualifications associated with the appointment of temporary, limited-term, and as-needed employees; and modifying the Municipal Code to state that certain additional appointments will be subject to a probationary period; and

WHEREAS, on March 21, 2020, the Director of Emergency Services issued a Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency aligning the Santa Monica Municipal Code with a California Department of Alcoholic Beverage Control (“ABC”) “Notice of Regulatory Relief” permitting restaurants and retailers holding valid ABC licenses to sell alcoholic beverages for off-site consumption via delivery and take-out; and

WHEREAS, on March 21, 2020, the Los Angeles County Department of Public Health issued an enhanced Health Officer Order, the Safer at Home Order for Control of COVID-19, amending and superseding its March 16, 2020, and March 19, 2020 Orders, closing all nonessential businesses and prohibiting gatherings of non-household members; and

WHEREAS, on March 22, 2020, the Director of Emergency Services issued an Eighth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency adopting as rules and regulations of the City of Santa Monica the Executive Order N-33-20, issued by the Governor of the State of California on March 19, 2020 (the “Governor’s Stay at Home Order”) and the Safer at Home Order for Control of COVID-19, issued by the Los Angeles County Department of Public Health on March 21, 2020 (the “County Department of Public Health’s Safer at Home Order”), including any later amendments or successors thereto, the stricter of which shall apply if there is any conflict between the Governor’s Stay at Home Order and the County Department of Public Health’s Safer at Home Order; and authorizing the City to issue administrative citations to enforce this and the previously issued supplements to its emergency declaration; and

WHEREAS, on March 27, 2020, the Governor of the State of California issued Executive Order N-37-20, building on Executive Order N-28-20 by extending the time for a tenant to respond to a summons and prohibiting the enforcement of a writ for tenants unable to pay due to reasons related to COVID-19; and

WHEREAS, on March 27, 2020, the Los Angeles County Department of Public Health issued an Addendum to the County Department of Public Health’s Safer at Home Order closing all public trails and trailheads, as well as all public beaches, piers, public beach parking lots, beach bike path that traverse that sanded portion of the beach, and beach access points; and

WHEREAS, on March 27, 2020, the Director of Emergency Services issued a Ninth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency closing certain City facilities, waiving late payment fees for

City leases and licenses during the effective period of the order, suspending rent payments for City tenants on the Santa Monica Pier for the month of April, suspending outdoor dining licenses and outdoor dining license payments for City licensees for the month of April, granting the Director of the Department of Housing and Community Development discretion to suspend additional rent or license payments for the month of April for City tenants and licensees whose operations have been closed pursuant to emergency orders issued by the City, the County of Los Angeles Department of Public Health, or the Governor of California, authorizing the City to delay responses and productions of records in response to public record requests under specified circumstances, and extending by one month Santa Monica Fire Department annual permits of operation set to expire on May 1, 2020; and

WHEREAS, on March 31, 2020, the Los Angeles County Department of Public Health issued Addendum No. 2 to the County Department of Public Health's Safer at Home Order clarifying that all government employees are essential workers during the pandemic; and

WHEREAS, on April 1, 2020, the Director of Emergency Services issued a Tenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency imposing requirements specific to construction sites and projects to ensure their compliance with the social distancing and hygiene directives imposed by the County Department of Public Health's Safer at Home Order; and

WHEREAS, on April 6, 2020, the Judicial Council of the State of California adopted an emergency court rule that effectively delays all evictions, other than those necessary to protect public health and safety, for the duration of the COVID-19 emergency; the rule is applicable to all courts and to all eviction cases, whether they are based on a tenant's missed rent payment or another reason; among other things, the rule temporarily prohibits a court from issuing a summons after a landlord files an eviction case, unless necessary to protect public health and safety; as a result, even if a landlord files an eviction case, he or she will not have a summons to serve on the tenant until 90 days after the emergency passes; and

WHEREAS, on April 6, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Supplements thereto, and resolved that the proclamation and the aforementioned Supplements shall be operative and in effect through April 30, 2020; and

WHEREAS, on April 8, 2020, the Director of Emergency Services issued a Second Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency enhancing eviction protections to require landlords to provide notice of local eviction protections to tenants, prohibiting no-fault residential evictions, prohibiting certain evictions based on a tenant's refusal of landlord entry into a residential unit, prohibiting certain evictions of residential tenants based on the presence of unauthorized pets or occupants, prohibiting use of the eviction process to seek rent delayed under the Supplement if the landlord has already obtained compensation for the delayed rent through governmental relief, and temporarily enhancing penalties under the City's Tenant Harassment Ordinance to \$15,000; and

WHEREAS, on April 8, 2020, the Director of Emergency Services issued an Eleventh Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency requiring workers and customers at covered businesses (including but not limited to grocery stores, farmers markets, restaurants, hardware stores, transportation providers, and plumbing and similar businesses) to wear face coverings; and

WHEREAS, on April 10, 2020, the Los Angeles County Department of Public Health issued a revised Safer At Home Order for Control of COVID-19 that amended and superseded the earlier March 16, 19, 21, 27, and 31 County Health Officer Orders and Addendums and continued to prohibit all indoor and outdoor public and private gatherings and events; require all businesses to cease in-person operations and remain closed to the public, unless defined as an Essential Business by the order; require the closure of all indoor malls and shopping centers, all swap meets and flea markets, indoor and outdoor playgrounds, public beaches, piers, public beach parking lots, beach access points, and public trails and trailheads; and prohibit in-person operations of all non-essential businesses; and

WHEREAS, on April 14, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Second Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Supplements thereto, and resolved that the Second Revised First Supplement shall be operative and remain in effect through May 31, 2020, and that the other aforementioned Supplements shall be operative and in effect through May 15, 2020; and

WHEREAS, on April 24, 2020, the Director of Emergency Services issued a Twelfth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency tolling deadlines for reviewing and acting on planning applications, exercising rights under planning entitlements, and expiration of building permits; permitting lodging establishments operating as hotels and motels under Santa Monica's zoning rules to allow stays of greater than 30 days, and waiving the City's rule precluding employees from accepting gifts of any sort to allow City first responders and disaster workers to take advantage of City-approved public or private discount, specials, and subsidies programs; and

WHEREAS, on April 30, 2020, the Director of Emergency Services issued a Third Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency extending the eviction moratorium to June 30 and modifying it by limiting the commercial tenants subject to the protections of the order to exclude multinational companies, public companies, and companies with more than 500 employees; making clear that notice and documentation that indicates any loss of income or increase in expenses due to COVID-19 is sufficient to trigger the moratorium on eviction for non-payment of rent due to financial impacts related to COVID-19, and that a statement written by the tenant in a single communication may constitute both notice and documentation; and extending the protection against eviction based on rent unpaid due to financial impacts related to COVID-19 from 6 to 12 months; in addition, the Third Revised First Supplement, in accordance with the Governor's Executive Order suspending state law provisions, suspends SMMC 5.45.020 and 5.45.030 to the extent they prohibit retail establishments from providing without charge reusable

grocery bags or recycled paper bags or single-use plastic carryout bags to customers at point of sale and adds language to the City's Housing Trust Fund and Affirmative Housing Production Program Guidelines to extend eligibility to individuals who were working in Santa Monica prior to March 1, 2020, but lost employment due to COVID-19 related reasons; and

WHEREAS, on May 7, 2020, the California State Public Health Officer issued an order that stated that COVID-19 continues to present a significant risk to the health of individuals throughout California, but, consistent with Californians' mitigation efforts and other factors determined that the statewide data supported the gradual movement of the entire state from Stage 1 to Stage 2 of California's Pandemic Resilience Roadmap, while authorizing local health jurisdictions to implement or continue more restrictive public health measures if warranted; and

WHEREAS, on May 8, 2020, the Los Angeles County Department of Public Health issued Addendum No. 2 to the April 10 revised County Department of Health Safer at Home Order amending that order to permit, subject to specific conditions, the reopening of certain specified types of lower-risk retail business for sales and service transactions made via curbside pick-up or delivery only, and the reopening of all previously closed public trails and trailheads, public and private golf courses, and new and used auto sales dealerships and operations; and

WHEREAS, on May 8, 2020, the Director of Emergency Services issued a Fourth Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency restating the eviction moratorium and modifying it to define a set of "non-retail commercial tenants" consisting of commercial tenants, other than non-profits, that are tenants in an office building, do not collect sales tax on greater than 50% of their revenue, and do not provide medical, dental, veterinary, fitness, educational, or child, marriage, family, mental health, or substance abuse counseling services; specify that, for non-retail commercial tenants, the protection against eviction will extend only for 30 days after the expiration of the Order; and specify that, with respect to rent unpaid due to financial impacts related to COVID-19, landlords may not charge residential tenants interest on that unpaid rent for a period of 12 months following the expiration of the Order, may not charge commercial tenants (other than non-retail commercial tenants) interest on that unpaid rent for a period of 90 days following the expiration of the Order, and may not charge non-retail commercial tenants interest on that unpaid rent during the duration of the Order; and

WHEREAS, on May 8, 2020, the Director of Emergency Services issued a Thirteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency incorporating the provisions of the Third Revised First Supplement that add language to the City's Housing Trust Fund and Affirmative Housing Production Program Guidelines to extend eligibility to individuals who were working in Santa Monica prior to March 1, 2020, but lost employment due to COVID-19 related reasons; incorporating the provisions of the Third Revised First Supplement that, in accordance with the Governor's Executive Order suspending state law provisions, suspend SMMC 5.45.020 and 5.45.030 to the extent they prohibit retail establishments from providing without charge reusable grocery bags or recycled paper bags or single-use plastic carryout bags to customers at point of sale; further extending to July 1, 2020 the expiration of Fire Department annual permits of operation; and limiting to between the hours of 10:00 am and 3:00 pm on weekdays the conduct

of certain loud construction activities, including cement cutting or grinding, sandblasting, and the use of pile drivers, jackhammers, or pavement breakers, at construction projects other than public works construction; and

WHEREAS, on May 12, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Third and Fourth Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, and Thirteenth Supplements thereto; resolved that the local emergency shall be deemed to continue and exist until its termination is proclaimed by the City Council; and resolved that the Fourth Revised First and Second through Thirteenth Supplements shall be operative and remain in effect through May 15, 2020, or any later date expressly stated within the text of an individual supplement; and

WHEREAS, on May 13, 2020, the Los Angeles County Department of Public Health issued a revised Safer At Home Order for Control of COVID-19 that amended and superseded the earlier March 16, 19, 21, 27, 31, April 10, and May 3 and 8, 2020 County Health Officer Orders and Addendums; recognized that existing community transmission of COVID-19 in Los Angeles County continues to present a substantial and significant risk of harm to residents' health; but took a limited and measured step to partially move the County into Stage 2 of its phased approach to reopening while keeping a low incidence of person-to-person contact and ensuring continued social distancing and adherence to other infection control procedures – accordingly, the order continued to prohibit indoor and outdoor public and private gatherings and events; continued to require the continued closure of higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur; continued to allow Essential Businesses to operate subject to social distancing requirements; allowed two categories of lower-risk businesses to reopen subject to specified social distancing protocols, retailers not located within an indoor mall or shopping center and manufacturing and logistics sector businesses that supply lower-risk retail businesses; permitted the reopening of beaches, while retaining closures of beach parking lots, beach bike paths, and piers; and authorized local public entities to temporarily close certain streets or areas to automobile traffic to allow for increased space for persons to engage in recreational activity in compliance with social (physical) distancing requirements; and

WHEREAS, on May 13, 2020, the City of Los Angeles issued a revised version of its safer at home order including requirements that all individuals engaging in outdoor activities, except for water activities, and all individuals engaging in essential activities whenever there is or can be contact with other who are non-household members in both public and private places, must wear a cloth face covering; and

WHEREAS, on May 14, 2020, the Director of Emergency Services issued a Fourteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency extending the effective dates of the Fourth Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, and Thirteenth supplements to June 30, 2020, or any later date expressly stated within the text of an individual supplement; and requiring all persons leaving their residences for the limited purposes allowed by the County Department of Public Health's Safer at Home Order to

strictly comply with the social (physical) distancing requirements stated in that Order or County Department of Public Health guidance or protocols, including in particular the requirement that cloth face masks must be worn whenever there is or may be contact with others who are non-household members, including while engaging in permitted outdoor activities other than water activities; and

WHEREAS, on May 15, 2020, the Director of Emergency Services issued a Fifteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency authorizing enforcement of preferential parking rules to resume in Zone 3 only beginning May 22, 2020 and authorizing street sweeping to resume with individuals encouraged to comply with posted signs regarding parking prohibitions for street sweeping during the days and times indicated, but only during the first full week of each month, which is when the street sweeping will occur; and

WHEREAS, on May 19, 2020, the Director of Emergency Services issued a Sixteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency authorizing specified Boards, Commissions, and other appointed bodies to resume limited meetings, to be conducted remotely pending further order, for the purpose of exercising specified adjudicative and quasi-adjudicative duties assigned to them by the Charter and/or Municipal code and imposing, effective May 26, 2020, a 15% cap on delivery fees and a 5% cap on other fees charged to restaurants by third-party food delivery companies; and

WHEREAS, on May 22, 2020, the Los Angeles County Department of Public Health issued a revised Safer At Home Order for Control of COVID-19 that amended and superseded the earlier March 16, 19, 21, 27, 31, April 10, May 3, 8, and 13, 2020 County Health Officer Orders and Addendums; recognized that existing community transmission of COVID-19 in Los Angeles County continues to present a substantial and significant risk of harm to residents' health; but took a limited and measured step to partially move the County into Stage 2 of its phased approach to reopening while keeping a low incidence of person-to-person contact and ensuring continued social distancing and adherence to other infection control procedures – accordingly, the order continued to prohibit indoor and outdoor public and private gatherings and events; continued to require the continued closure of higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur; continued to allow Essential Businesses to operate subject to social distancing requirements; allowed the conditional reopening of specific retail and other Lower-Risk businesses, including curbside, doorside, or other outdoor or outside pickup from retailers located within an indoor mall or shopping center and manufacturing and logistics sector businesses that supply lower-risk retail businesses; permitted the reopening of beaches, beach parking lots, and beach bike paths, while maintaining the closure of public piers; continued to authorize local public entities to temporarily close certain streets or areas to automobile traffic to allow for increased space for persons to engage in recreational activity in compliance with social (physical) distancing requirements; and authorized participation in Vehicle-Based Parades in compliance with all laws and a specified protocol; and

WHEREAS, on May 25, 2020, the California Department of Health, while recognizing that COVID-19 is still present in State communities and that physical distance, wearing face coverings in public, and washing hands frequently are more important than ever, announced the statewide opening of in-store retail shopping, under previously issued guidance and subject to approval by county public health departments, and issued guidelines for in-person protests and events designed for political expression; and

WHEREAS, on May 26, 2020, the Los Angeles County Department of Public Health issued a revised Safer At Home Order for Control of COVID-19 that superseded all prior Safer At Home Orders; while recognizing that existing community transmission of COVID-19 in the County continues to present a substantial and significant risk of harm to residents' health, in light of the progress achieved in slowing the spread of COVID-19 in the County, aligned the County with State Executive Orders and State Health Officer Orders that support phased reopening in accordance with the California Pandemic Resilience Roadmap's four stage framework, while maintaining the goals of limiting close contacts with others outside of residents' households in both indoor and outdoor spaces and ensuring continued social distancing and adherence to other infection control procedures – accordingly, the order continued to prohibit indoor and outdoor public and private gatherings and events except for the limited purposes expressly permitted by the Order; continued to require compliance with social (physical) distancing requirements including wearing a cloth face covering whenever there is or can be contact with others who are non-household members in both public and private spaces; continued to require the closure of higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur; continued to allow Essential Businesses to operate subject to social distancing requirements; allowed the conditional reopening of four categories of Lower-Risk businesses – lower-risk retail businesses that may now reopen for in-store shopping so long as capacity is kept under 50%, manufacturing and logistics sector businesses that supply lower-risk retail businesses, non-essential office-based businesses (while continuing to strongly encourage telework), and indoor malls and shopping centers; continued to permit the reopening of beaches, beach parking lots, and beach bike paths, while maintaining the closure of public piers; continued to authorize local public entities to temporarily close certain streets or areas to automobile traffic to allow for increased space for persons to engage in recreational activity in compliance with social (physical) distancing requirements; continued to authorize participation in Vehicle-Based Parades in compliance with all laws and a specified protocol; permitted in-person attendance at faith-based services, provided that the gathering of congregants is limited to the lower of 25% of the total maximum building occupancy or a maximum of 100; and permitted participating in in-person protests subject to the same attendance limits and maintenance of physical distancing; and

WHEREAS, on May 29, 2020, the State Public Health Officer approved the request of Los Angeles County to reopen restaurants for sit-down, dine-in meals; and

WHEREAS, on May 29, 2020, the Los Angeles County Department of Public Health issued a revised Safer At Home order that superseded all prior Safer At Home Orders and was essentially equivalent to the May 26 Safer At Home Order with the exceptions that it: added hair salons and barbershops as a fifth category of Lower-Risk businesses allowed to reopen subject to specified conditions; and permitted restaurants and other food facilities that provide sit-down,

dine-in meals to reopen subject to specified conditions, including a limitation to 60% occupancy; and

WHEREAS, on May 29, 2020, the Director of Emergency Services issued a Seventeenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency superseding and replacing the Third Supplement to specify that closures and re-openings of businesses within Santa Monica shall be in accordance with State and County orders, with those imposing stricter regulations controlling in the event of conflict, and continuing to exempt trucks and other vehicles that deliver grocery items to grocery stores from limitations on delivery hours; and

WHEREAS, on May 29, 2020, the Director of Emergency Services issued an Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency authorizing temporary outdoor dining extensions to adjacent sidewalk and/or adjacent parking, courtyard, or other private open space owned by the restaurant, for restaurants that open for in-house dining pursuant to the safety protocols required by the County safer at home order; superseding and replacing Section 5 of the Revised Fourth Supplement and Sections 1 through 3 of the Twelfth Supplement to extend for two years the deadlines for planning, review, and permit-related actions; and superseding and replacing Sections 3 through 6 of the Ninth Supplement to waive and suspend late payment fees, rent payments by City tenants on the Santa Monica pier, and outdoor dining license payments for the months of April, May, and June 2020, and authorize the implementation of a rent deferment program for City commercial tenants whose operations have been closed or significantly restricted by COVID-19 emergency orders; and

WHEREAS, on June 5, 2020, the Director of Emergency Services issued the First Revised Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency extending the authorization for temporary outdoor dining in the Eighteenth Supplement to adjacent private spaces not owned by restaurant with the consent of the owner and to sidewalks in front of adjacent buildings with the consent of the owner and authorizing the Finance Director to extend the delinquency date for business license renewal fees by two months (from September 1 to November 1) for businesses whose ability to pay has been affected by economic impacts related to COVID-19 or the civil unrest; and

WHEREAS, on June 9, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Fourth Revised First, Second, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, and Eighteenth Supplements thereto; resolved that the local emergency shall be deemed to continue and exist until its termination is proclaimed by the City Council; and resolved that the Fourth Revised First, Second, and Revised Fourth through Eighteenth Supplements shall be operative and remain in effect through June 30, 2020, or any later date expressly stated within the text of an individual supplement; and

WHEREAS, on June 11, 2020, the Los Angeles County Department of Public Health issued a Reopening Safer at Work and in the Community For Control of COVID-19 – Moving the County of Los Angeles Into Stage 3 of California’s Pandemic

Resilience Roadmap order that superseded all prior Safer At Home Orders and was essentially equivalent to the May 29 Safer At Home Order with the exception that it permitted outdoor activity to resume at piers and the following business and activities to reopen no earlier than June 12, 2020 subject to conditions and protocols as stated in the Safer At Home Order: music film and television production; day camps; fitness facilities; museums; professional sports without audiences; campgrounds, RV Parks, and associated outdoor activities; swimming pools and splash pads; for-hire fishing, guided fishing, or chartered boat trips; and hotels, motels, shared rental units and similar facilities for tourism travel; and

WHEREAS, on June 17, 2020, the Director of Emergency Services issued a Fifth Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency that: for residential tenants, restated the existing temporary eviction moratorium and extended the period for which unpaid rent will be subject to that eviction moratorium to July 31, 2020; and, for commercial tenants, substantially modified the temporary eviction moratorium, defining three different categories of commercial tenants, each of which receives varying protections, and encouraging landlords and commercial tenants to negotiate modifications to rental agreements and payment plans to accommodate changed economic circumstances of commercial landlords and tenants arising from the financial impacts of COVID-19; and

WHEREAS, on June 18, 2020, the California Department of Public Health issued Guidance for the Use of Face Coverings mandating the use of cloth face coverings by the general public under specified circumstances when outside the home including when inside of, or in line to enter, any indoor space and while outdoors in public spaces when maintaining a physical distance of 6 feet from persons who are not members of the same household or residence is not feasible; and

WHEREAS, on June 18, 2020, the Los Angeles County Department of Public Health issued a revised Reopening Safer at Work and in the Community for Control of COVID-19 – Moving the County of Los Angeles Into Stage 3 of California’s Pandemic Resilience Roadmap order that superseded all prior Safer At Home Orders and was essentially equivalent to the June 11 Safer At Home Order with the exception that it clarified the requirements that individuals leaving their residences must wear face coverings when they are or can be in contact with or walking past others outside of their household and permitted the reopening of the following business and activities no earlier than June 19, 2020 subject to conditions and protocols as stated in the Safer At Home Order: cardrooms, satellite wagering facilities and racetracks with no spectators; personal care services; and bars, wineries, breweries and tasting rooms; and

WHEREAS, on June 22, 2020, the Governor of the State of California issued Executive Order N-70-20 which extended for an additional 60 days the tenth and eleventh paragraphs of Executive Order N-54-20, implementing a waiver that allows retailers to temporarily pause in-store redemption of beverage containers and temporarily suspending the requirement for recycling centers to hold a minimum hours of operation, but did not similarly extend the twelfth paragraph of Executive Order N-54-20, which had suspended Public Resources Code section

42283's prohibitions relating to retail establishments providing bags to customers at point of sale; and

WHEREAS, on June 23, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Fifth Revised First, Second, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, and First Revised Eighteenth Supplements thereto; resolved that the local emergency shall be deemed to continue and exist until its termination is proclaimed by the City Council; and resolved that the Fourth Revised First, Second, and Revised Fourth through First Revised Eighteenth Supplements shall be operative and remain in effect through June 30, 2020, or any later date expressly stated within the text of an individual supplement; and

WHEREAS, on June 23, 2020, the Los Angeles County Department of Consumer and Business Affairs issued Revised Guidelines to Aid in the Implementation of the Los Angeles County Eviction Moratorium During the COVID-10 Pandemic that, in accordance with orders issued by the Los Angeles County Board of Supervisors, recognized the extension of the County's eviction through July 31, 2020, but, effective June 1, 2020, excluded from application of the moratorium commercial tenancies where the tenant has more than 100 employees and commercial tenancies where the tenant is a multinational company or a publicly traded company; and

WHEREAS, on June 23, 2020, the Director of Emergency Services issued a Second Revised Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency that modified the First Revised Eighteenth Supplement to: supersede and replace the Second Supplement that closed the Pier, permitting the Pier to begin a phased reopening subject to conditions to ensure social distancing as of June 24, 2020; extend the suspension of outdoor dining license payments for City licensees through August 2020; extend the deadline for applications for extensions of the delinquency date for business license renewals to August 31, 2020; extend the authorization for temporary dining to adjacent private spaces not owned by the restaurant and to sidewalks in front of adjacent buildings with the consent of either the owner or tenant; extend the authorization for temporary dining to areas of the Pier to be specified by the Director of the Community Development Department subject to specified conditions and any additional regulations; extend the authorization for temporary dining to portions of the sidewalk or roadway in the Third Street Promenade to be specified by the Director of the Community Development Department subject to specified conditions and any additional regulations; authorize the temporary use by businesses of adjacent sidewalks, adjacent private outdoor space, and areas of the Pier to be specified by the Director of the Community Development Department for business activities other than temporary dining, subject to specified conditions and any additional regulations; authorize restaurants and other businesses to establish temporary parklets for business activities and outdoor dining in on-street parking and loading spaces adjacent to the restaurant or business, subject to specified conditions, specified design and safety specifications, and any additional regulations; and specify that for compliance with certain specified mandatory seismic retrofitting requirements, the two-year extension for planning, review, and permit-related actions applies only if an application was pending as of March 13, 2020 or submitted between March 13, 2020 and the expiration of the Order; and

WHEREAS, on June 28, 2020, in light of current rates of disease transmission in some counties and the need to reduce non-essential gatherings where mixing and disease spread occur, the California Department of Public Health ordered the closure in certain counties, including Los Angeles County, of bars, brewpubs, breweries, and pubs not offering sit-down, dine-in meals that had reopened after June 12 in accordance with prior state and local guidance and reemphasized that alcohol can only be sold in such establishments in the same transaction as a meal; and

WHEREAS, on June 28, 2020, Los Angeles County Department of Public Health issued a revised Reopening Safer at Work and in the Community For Control of COVID-19 – Moving the County of Los Angeles Into Stage 3 of California’s Pandemic Resilience Roadmap order that superseded all prior Safer At Home Orders and was essentially equivalent to the June 18 Safer At Home Order with the exceptions that it returned most bars, brewpubs, breweries, tasting rooms, craft distilleries, and wineries to the list of higher-risk businesses whose closure is required; and required restaurants with a moderate risk or high risk permit issued by the County Department of Public Health and other food facilities that provide in-person dining to follow a revised protocol for on-site dining; and

WHEREAS, on June 29, 2020, the Los Angeles County Department of Public Health issued a Reopening Safer at Work and in the Community for Control of COVID-19 order requiring the temporary closure of all public beaches, piers, beach bicycle paths and beach access points between July 3 and July 6; prohibiting all firework shows and events until further notice; noting that the County has recently observed a sharp increase in new COVID-19 cases and hospitalizations demonstrating the reality of increased community transmission of COVID-19; and reemphasizing that State public health directives and the current County Health Officer Order prohibit professional, social, and community mass gatherings, with gatherings defined as meetings or other events that bring together persons from multiple households at the same time for a shared or group experience in a single room, space, or place; and

WHEREAS, on June 29, 2020, the Director of Emergency Services issued a Nineteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency that, with certain specified exceptions, extended the effective dates of the Fifth Revised First, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, and Second Revised Eighteenth Supplements to July 31, 2020, or any later date expressly stated within the text of an individual supplement; specified exceptions permitted impositions of late payment penalties for unpaid or delinquent Transient Occupancy Taxes, Utility Users Taxes, and Parking Facility Taxes to resume as of July 1, 2020; towing for violations of the California Vehicle Code relating to abandoned vehicles to resume as of July 1, 2020; the suspension of the prohibitions of Santa Monica Municipal Code Sections 5.45.020 and 5.45.030 relating to stores providing bags to customers at the point of sale without charge to expire as of July 1, 2020; Santa Monica Fire Department annual permits of operation to expire as of July 1, 2020; and issuance of parking citations associated with street sweeping to resume as of July 1, 2020; and

WHEREAS, on June 30, 2020, the Governor of California issued Executive Order N-71-20, which, among other things, found that minimizing evictions during this period is critical to

reducing the spread of COVID-19 in vulnerable populations by allowing those most vulnerable to COVID-19 to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19, and extended through September 30, 2020 Executive Order N-28-20's suspension of any and all provisions of state law that would preempt or otherwise restrict a local government's exercise of its police powers to impose substantive limitations on residential and commercial evictions with respect to COVID19-related rent payment issues; and

WHEREAS, on July 1, 2020, in a letter to California elected officials, the Governor of the State of California noted the recent increase in COVID-19 cases, including a concerning increase in hospitalizations; reminded Cities and Counties of their power, conferred by the California Constitution, to take action to protect their residents; called on elected officials to remain vigilant in efforts to protect the health and safety of their communities; and emphasized the dire consequences of failing to ensure compliance with public health orders, including a surge of COVID-19 cases and fatalities and an unsustainable burden on health care services that may divert resources from other health needs, further delaying reopening efforts; and

WHEREAS, on July 1, 2020, the Los Angeles County Department of Public Health issued a revised Reopening Safer at Work and in the Community For Control of COVID-19 – Moving the County of Los Angeles Into Stage 3 of California's Pandemic Resilience Roadmap order that superseded all prior Safer At Home Orders and was essentially equivalent to the June 28 Safer At Home Order with the exceptions that it noted the serious recent regression of COVID-19 indicators within the Count of Los Angeles, which showed troubling and substantial increases in new daily reported COVID-19 cases, hospitalizations, and testing positivity rate; returned indoor, in-person onsite dining at restaurants, cardrooms, satellite wagering facilities, racetrack onsite wagering facilities, and indoor portions and exhibits of museums, zoos, and aquariums to the list of high-risk businesses required to close for at least 21 days and until further notice; and ordered the closure of indoor mall or shopping center food court dining and seating areas for at least 21 days and until further notice; and

WHEREAS, on July 1, 2020, the Director of Emergency Services issued a Twentieth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency that superseded and replaced the Eleventh and Fourteenth Supplements to, in accordance with the County Safer at Home Orders and the California Department of Health's recent Guidance for the Use of Face Coverings, set out specifics regarding the requirement that all individuals wear face coverings whenever they leave their place of residence and are or may be in in contact with non-household members in both public and private spaces; set out exemptions from the face covering requirement; specify that business operators may refuse admission or service to any person who fails to wear a face covering as required or to comply with social distancing requirements imposed by the County Safer at Home orders; and authorizes administrative citations with specified administrative fines for both individuals and businesses failing to comply with the face covering requirements; and

WHEREAS, on July 10, 2020, the Director of Emergency Services issued a Second Revised Twenty-First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency that superseded and replaced the Twenty-First Supplement issued July 8, 2020 and the Revised Twenty-First Supplement issued July 9, 2020,

to, with respect to the November 3, 2020 general municipal election, reduce the number of nominating signatures for candidates to which Santa Monica Municipal Code Section 11.04.010 would apply from 100 to 30 and to waive the fee of \$1 for each additional set of nomination papers after the first two sets; and

WHEREAS, on July 13, 2020, in light of current data reflecting that community spread of COVID-19 infection is of increasing concern across the state, the California Department of Public Health ordered the statewide closure of all operations, indoors and outdoors, of bars, pubs, brewpubs, breweries, and concert, performance, and entertainment venues, subject to specified exceptions; the statewide closure of indoor operations of dine-in restaurants, wineries and tasting rooms, family entertainment centers and movie theaters, indoor attractions at zoos and museums, and cardrooms; and the closure in certain counties that currently appear on the Department's County Monitoring List and have been on the list for three consecutive days, which included Los Angeles County, all indoor operations of gyms and fitness centers, places of worship, protests, offices for non-critical infrastructure sectors, personal care services (including nail salons, massage parlors, and tattoo parlors), hair salons and barbershops, and malls; and

WHEREAS, on July 14, 2020, the Los Angeles County Department of Public Health issued a revised Reopening Safer at Work and in the Community For Control of COVID-19 – Moving the County of Los Angeles Into Stage 3 of California's Pandemic Resilience Roadmap order that superseded all prior Safer At Home Orders and was essentially equivalent to the July 1 Safer At Home Order with the exceptions that it ordered the closure of indoor operations of hair salons and barbershops, fitness facilities, and personal care establishments; permitted in-person faith-based services and protests so long as they are held outdoors; ordered the closure of indoor portions and operations of indoor malls and shopping centers; required that all indoor portions and operations of any non-essential office-based business cease, subject to the exception for minimum basic operations; and required that essential businesses, healthcare operations, or essential infrastructure whose operations require employees to operate from an office worksite require employees to telework to the extent feasible; and

WHEREAS, on July 14, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Fifth Revised First, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Twelfth, Thirteenth, Fifteenth, Sixteenth, Seventeenth, Second Revised Eighteenth, Nineteenth, Twentieth, and Revised Twenty-First Supplements thereto; resolved that the local emergency shall be deemed to continue and exist until its termination is proclaimed by the City Council; and resolved that the supplements being ratified above shall be operative and remain in effect through July 31, 2020, or any later date expressly stated within the text of an individual supplement; and

WHEREAS, on July 15, 2020, the Director of Emergency Services issued the First Revised Twentieth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency, which superseded and replaced the Twentieth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency to further clarify the requirement that all persons must wear face coverings whenever they leave their place of residence and are or can be in contact with or walking near or past others who are non-household members in both public and private spaces,

including, but not limited to, walking through common areas such as hallways, stairways, elevators, and parking facilities; clarify that having a face covering visible and immediately ready to put on whenever within 30 feet of another non-household member is intended to satisfy the face covering requirement when walking, running, biking, or otherwise exercising or moving in outdoor areas such as sidewalks, parks, paths, and trails; and add provisions permitting limited inquiries to those asserting exemptions from the face covering because of medical condition, mental health condition, or disability to prevent fraudulent assertions of such exemptions; and

WHEREAS, on July 15, 2020, the Director of Emergency Services issued a Twenty-Second Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency, which extended the eviction moratorium for residential tenants implemented by the Fifth Revised First Supplement to September 30, 2020, and extended the eviction moratorium for commercial tenants implemented by the Fifth Revised First Supplement to August 31, 2020; and

WHEREAS, on July 18, 2020, the Los Angeles County Department of Public Health issued a revised Reopening Safer at Work and in the Community For Control of COVID-19 – Moving the County of Los Angeles Into Stage 3 of California’s Pandemic Resilience Roadmap order that superseded all prior Safer At Home Orders and was essentially equivalent to the July 14 Safer At Home Order with the exceptions that it stated its intent to continue to ensure that County residents remain in their residences as much as practicable to limit close contact with others outside their household in both indoor and outdoor spaces; reemphasized that all persons who can telework or work from home should continue to do so as much as possible; restated that all gatherings of people who are not part of a single household or living unit are prohibited except for the limited purposes expressly permitted by the order; recognized that the State Public Health Officer requires all public and private schools within the County of Los Angeles to remain closed to in-person learning until certain criteria are satisfied and issued reopening protocols for schools permitted to reopen to in-person learning; directed that individuals instructed by their medical provider not to wear a face covering should wear a face shield with a drape on the bottom edge as long as their condition permits it; and included revised reopening protocols for various types of businesses; and

WHEREAS, on July 28, 2020, the Director of Emergency Services issued a Twenty-Third Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency, which, subject to the exceptions stated in Section 2 of the Nineteenth Supplement, extended the effective dates of the Fifth Revised First, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Twelfth, Thirteenth, Fifteenth, Sixteenth, Seventeenth, Second Revised Eighteenth, Nineteenth, First Revised Twentieth, Second Revised Twenty-First, and Twenty-Second Supplements to August 31, 2020, or any later date expressly stated within the text of an individual supplement; and,

WHEREAS, on July 28, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Fifth Revised First, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Twelfth, Thirteenth, Fifteenth, Sixteenth, Seventeenth, Second Revised Eighteenth, Nineteenth, First Revised Twentieth, Second Revised Twenty-First, and Twenty-Second Supplements thereto; resolved

that the local emergency shall be deemed to continue and exist until its termination is proclaimed by the City Council; and resolved that the supplements being ratified above shall be operative and remain in effect through August 31, 2020, or any later date expressly stated within the text of an individual supplement; and

WHEREAS, on August 12, 2020, the Los Angeles County Department of Public Health issued a revised Reopening Safer at Work and in the Community For Control of COVID-19 – Moving the County of Los Angeles Into Stage 3 of California’s Pandemic Resilience Roadmap order that superseded all prior Safer At Home Orders and was essentially equivalent to the July 18 Safer At Home Order with the exception that it provided clarification regarding when elementary schools may seek a waiver to conduct in-person instruction for grades TK-6; updated requirements for childcare facilities to specify childcare must be carried out in stable groups of 12 or fewer children in the same group each day, instead of 10; and aligned with new guidance for institutes of higher education; and

WHEREAS, as of August 16, 2020, the Los Angeles County Department of Public Health has confirmed 223,131 cases of COVID-19 in Los Angeles County and has continued to advise that bold and aggressive measures are required to be put in place to prevent the further spread of COVID-19; and

WHEREAS, the City has an important government interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, permitting restaurants and other eligible businesses to temporarily extend their operations to the areas adjacent to the restaurant, any parking, courtyard, plaza, or other private open space area owned or leased by the restaurant or eligible business, or adjacent public parking spaces for outdoor dining or business activities in accordance with this Order will enable the restaurants and other eligible businesses to operate safely during the pendency of this COVID-19 emergency; and

WHEREAS, Santa Monica Municipal Code Section 2.72.010 authorizes the imposition of fees for the private commercial use of public property; and

WHEREAS, California Government Code 8634 empowers the City to promulgate orders and regulations necessary to provide for the protection of life and property during a local emergency, and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise my authority pursuant to Section 2.16.060 of the Santa Monica Municipal Code to issue this regulation related to the protection of life and property.

NOW, THEREFORE, I, Lane Dilg, the Director of Emergency Services for the City of Santa Monica, do hereby issue the following order to become effective immediately, subject to ratification as soon as practicable by the City Council:

IT IS HEREBY ORDERED THAT:

Extension of Deadlines for Planning, Review, and Permit-Related Actions

1. Sections 2 through 6 of this Order supersede and replace Section 5 of the Fourth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued March 17, 2020, and Sections 1 through 3 of the Twelfth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued April 24, 2020.

2. All deadlines for planning, review, and permit-related actions established by any provisions of laws, ordinances, regulations, resolutions, rules and statutes, including but not limited to provisions contained in the Housing Accountability Act, Permit Streamlining Act, California Environmental Quality Act, the Subdivision Map Act, and Articles VIII and IX of the Santa Monica Municipal Code, are hereby extended for a period of two years, as set forth in Section 4 below subject to the limitation in Section 3 below. For purposes of this Order, “deadlines for planning, review, and permit-related actions” shall include, but not be limited to the following:

- a. Deadlines to review, determine the completeness of, or take action on applications pending as of March 13, 2020, or submitted between March 13, 2020 and the expiration of this Order, for planning entitlements, permits, and approvals issued under Article IX of the Santa Monica Municipal Code.
- b. Deadlines to open or conclude a public hearing on, or to authorize an automatic approval, denial or disapproval of, applications pending as of March 13, 2020, or submitted between March 13, 2020 and the expiration of this Order, for planning entitlements, permits, or approvals issued under Article IX of the Santa Monica Municipal Code.
- c. Deadlines for review and approval of applications pending as of March 13, 2020, or submitted between March 13, 2020 and the expiration of this Order, for a building permit, plan review and related approvals issued under Article VIII of the Santa Monica Municipal Code.
- d. Deadlines to exercise and continuously pursue the rights granted under planning entitlements, permits and approvals issued and still active as of March 13, 2020, or issued between March 13, 2020 and the expiration of this Order under Article IX of the Santa Monica Municipal Code.
- e. Deadlines for expiration of issued building permits, plan reviews and related approvals issued and still active as of March 13, 2020, or issued between March 13, 2020 and the expiration of this Order under Article VIII of the Santa Monica Municipal Code.

3. All deadlines for planning, review, and permit-related actions shall be extended for two years only to the extent consistent with State law and any directives issued by the Governor, and

to the extent State law or any directives issued by the Governor require that the extension be limited to a lesser period, this Order shall implement an extension limited to that lesser period.

4. Notwithstanding anything to the contrary in this Order, there shall be no extension of deadlines for planning, review, and permit-related actions relating to compliance with timelines set forth in Chapters 8.58, 8.60, 8.64, 8.76, and 8.80 of the Santa Monica Municipal Code, and, in particular, the time limits for compliance as set forth in Sections 8.58.050, 8.60.040, 8.64.060, 8.76.060, and 8.80.060 of the Santa Monica Municipal Code, unless an application was pending as of March 13, 2020, or submitted between March 13, 2020 and the expiration of this Order. For the sake of clarity, the deadlines for planning, review, and permit-related actions relating to compliance with timelines set forth in Chapter 8.72 for soft story buildings and, specifically, the time limits for compliance in Section 8.72.050 shall be extended as set forth in Section 2.

5. The extension implemented by Sections 2 and 3 above shall mean that the date on which action would otherwise have been required to be taken in the absence of this Order shall be extended by two years, or such lesser time as may be required in accordance with Section 3 of this Order, from the later of the expiration of this Order or the date on which action would otherwise have been required to be taken in the absence of this Order..

6. Nothing in Sections 2 through 5 of this Order prohibits the applicable City Departments from continuing to process applications in a reasonable and timely manner. Nothing in Sections 2 through 5 shall be deemed to create any legal entitlement to the extension granted by this Order.

City Leases and Licenses

7. Sections 8 through 13 of this Order supersede and replace Sections 3 through 6 of the Ninth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued March 27, 2020.

8. Late payment fees for City leases and licenses are waived during the effective period of Sections 8 through 13 of this Order.

9. Rent payments for City tenants on the Santa Monica Pier are suspended for the months of April, May, and June 2020.

10. Outdoor dining license payments for City licensees are suspended for the months of April, May, June, July, August, September, and October 2020.

11. The Director of the Department of Housing and Economic Development or designee, or the Director of the Community Development Department or designee, is granted discretion to suspend additional rent or license payments for the months of April, May, June, July, August, September, and October 2020 for City tenants and licensees whose operations have been closed or significantly restricted pursuant to emergency orders issued by the City, the County of Los Angeles Department of Public Health, or the Governor of California.

12. The Director of the Department of Housing and Economic Development or designee, or the Director of the Community Development Department or designee, is further granted discretion to establish and implement, through administrative direction, guidelines, and/or

regulations, a rent deferment program for City commercial tenants that defers rent and license payments until the emergency orders issued by the City, the County of Los Angeles Department of Public Health, or the Governor of California that closed or significantly restricted the operations of tenants and licensees are lifted or modified such that business are authorized to open to the public and any remaining restrictions do not require a significant reduction in operating levels.

13. The Director of the Department of Housing and Economic Development or designee, or the Director of the Community Development Department or designee, is further directed to enter into negotiations with El Camino SBDC and SMC Workforce Development Office regarding technical assistance that could be provided to local businesses regarding accessing federal and state assistance.

Extension of Delinquency Date for Business License Renewals

14. The definitions in Santa Monica Municipal Code Section 6.04.010 apply to the words and phrases used in Sections 14 through 18 of this Order. In addition, as used in Sections 14 through 18 of this Order:

- a. "Current licensee" means any licensee who, as of the date of this Order, holds a valid City of Santa Monica annual business license that, pursuant to Santa Monica Municipal Code Section 6.04.110(c), shall expire on June 30, 2020;
- b. "Delinquent date" means the date on which penalties begin to accrue for nonpayment of a current licensee's yearly license renewal fee pursuant to Santa Monica Municipal Code Section 6.04.160; and
- c. "Extension application" means an application submitted by a current licensee, in the form prescribed pursuant to Section 16 of this Order, requesting an extension of the delinquent date from September 1, 2020 to November 1, 2020.

15. The Finance Director or designee may approve an extension application submitted by a current licensee who demonstrates, as determined by the Finance Director or designee in the exercise of his or her absolute discretion, that the current licensee's ability to pay the yearly annual license renewal fee before September 1, 2020 has been adversely affected by economic impacts related to COVID-19 following the March 13, 2020 declaration of a local emergency related to COVID-19 or by economic impacts resulting from civil unrest occurring following the May 30, 2020 declaration of a local emergency related to that civil unrest. Upon approval of an extension application, the delinquent date shall be extended from September 1, 2020 to November 1, 2020.

16. To be eligible for an extension of the delinquent date, an extension application must be submitted by no later than August 31, 2020.

17. The Finance Director or designee shall prescribe the form of the extension application. Any extension application shall include a declaration submitted under the penalty of perjury certifying that the current licensee's ability to pay the yearly annual license renewal fee before September 1, 2020 has been adversely affected by economic impacts related to COVID-19

following the March 13, 2020 declaration of a local emergency related to COVID-19 or by economic impacts resulting from civil unrest occurring following the May 30, 2020 declaration of a local emergency related to that civil unrest. The Finance Director or designee may require a current licensee to submit as part of an extension application such information and supporting data, including additional certifications, as the Finance Director or designee considers necessary to process extension applications.

18. The Finance Director or designee may promulgate regulations to implement Sections 14 through 17 of this Order. Failure by a current licensee to comply with any such regulations may constitute grounds for denial of the current licensee's extension application or the revocation of any granted extension of the delinquent date.

Temporary Outdoor Dining Extension

19. The definitions in Santa Monica Municipal Code Section 9.52.020 apply to the words and phrases used in Sections 19 through 29 of this Order. In addition, as used in Sections 19 through 29 of this Order:

- a. "Restaurants" mean restaurants, full-service, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(b), or restaurants, limited-service and take-out, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(c).
- b. "Sidewalk" means a "sidewalk," as that term is defined by Santa Monica Municipal Code Section 9.52.020.2250, or any portion of the Santa Monica Pier, as that term is defined by Santa Monica Municipal Code Section 6.36.020, that is designated for temporary outdoor dining pursuant to regulations promulgated by the Director of the Community Development Department or designee. For the purposes of Sections 19 through 29 of this Order, sidewalk does not include the sidewalk in the Third Street Promenade.

20. Sections 19 through 29 of this Order apply to legally established restaurants, excluding those located on the Third Street Promenade, that either (a) have an existing outdoor dining permit or (b) have entered into a Temporary COVID-19 Outdoor Encroachment Agreement or received a temporary permit from the Director of the Community Development Department or designee for any outdoor dining permitted under this Order that encroaches on the sidewalk. The Director of the Community Development Department or designee shall be authorized to draft and enter into a Temporary COVID-19 Outdoor Encroachment Agreement with an applicant restaurant and may choose to enter into such agreement on such terms as the Director or designee deems necessary and to require the submission of additional information or supporting data to ensure ongoing protection of public health and safety of the City. In lieu of a Temporary COVID-19 Outdoor Encroachment Agreement, the Director of the Community Development Department or designee is authorized to issue a permit for temporary outdoor dining that encroaches on the sidewalk.

21. Restaurants that are permitted to open for on-site food service by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's

Safer at Home Order, including any amendments and successors thereto, and that do open for on-site food service in accordance with such orders and any and all social distancing and infection control protocols imposed by such orders, shall be permitted to use the sidewalk area adjacent to the restaurant in accordance with the conditions set forth in Section 23 of this Order.

22. Restaurants with existing outdoor dining permits shall use the space covered by the existing outdoor dining permit in accordance with: (a) all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto; and (b) all conditions of the existing outdoor dining permit. Alcohol may be served only by restaurants that: (a) have obtained and are operating under a license to sell alcoholic beverages from the California Department of Alcoholic Beverage Control ("ABC"); and (b) have obtained and are operating under a Conditional Use Permit or Alcohol Exemption issued by the City, or are operating as an existing alcohol outlet without a Conditional Use Permit pursuant to Section 9.31.040 of the Santa Monica Municipal Code. Sales of alcohol shall be conducted in accordance with all requirements and conditions set forth in such licenses and permits, as may be modified by any Notices of Regulatory Relief issued by ABC, the Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring a Local Emergency issued on March 21, 2020, Interim Zoning Ordinance Numbers 2636 (CCS) and 2637, adopted by the City Council on May 12, 2020, and any successors thereto.

23. Restaurants without existing outdoor dining permits and restaurants that seek to use additional sidewalk space that exceeds any area covered by an existing outdoor dining permit, may conduct any such outdoor dining subject to all of the following conditions:

- a. Restaurants must enter into a Temporary COVID-19 Outdoor Encroachment Agreement with the City, or, if elected by the Director of the Community Development Department or designee pursuant to Section 20, obtain a permit for such encroachment. Any certificate issued by the City for the temporary use of outdoor areas shall be displayed by the restaurant during business hours.
- b. Outdoor dining must be conducted in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto.
- c. Outdoor dining on a sidewalk as authorized by this Order shall be conducted as a temporary accessory use to a legally established restaurant that is located on the parcel or on an adjacent parcel. Nothing in this Order shall be considered an entitlement or permit for use of an outdoor dining and seating area, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(9), or to confer any vested rights to any ongoing or continuing activities beyond the expiration of this Order .
- d. Adequate pedestrian access on the sidewalk must be provided and maintained, which is considered to be no less than five (5) feet of unobstructed access.

- e. Alcohol may be served only by restaurants that: (i) have obtained and are operating under a license to sell alcoholic beverages from ABC; and (ii) have obtained and are operating under a Conditional Use Permit or Alcohol Exemption issued by the City, or are operating as an existing alcohol outlet without a Conditional Use Permit pursuant to Section 9.31.040 of the Santa Monica Municipal Code. Sales shall be conducted in accordance with all requirements and conditions set forth in such licenses and permits, as may be modified by any Notices of Regulatory Relief issued by ABC, the Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring a Local Emergency issued on March 21, 2020, Interim Zoning Ordinance Numbers 2636 (CCS) and 2637, adopted by the City Council on May 12, 2020, and any successors thereto.
- f. Furnishings for outdoor dining are limited to movable tables, chairs, floor coverings, umbrellas or canopies that are secured and maintain the height clearance for sidewalk or pedestrian passage, and electric cordless lighting (collectively, “temporary furnishings”). Any canopy (i) must have all sides open (i.e., it cannot be an enclosed tent), (ii) must be sufficiently secured to meet wind load requirements, (iii) may not exceed 700 square feet, and (iv) may not be utilized in close proximity to a propane heater (e.g., a propane heater may not be placed underneath a canopy). All temporary furnishings, other than tables and chairs, shall be removed every day upon closing of the outdoor dining service. Any tables and chairs not removed upon closing of business shall be secured against the building and leave at least five (5) feet of unobstructed access on the sidewalk. In addition to the temporary furnishings above, propane heaters are permitted so long as the restaurant (i) has an existing or obtains a propane heater permit from the Santa Monica Fire Department, (ii) complies with the Santa Monica Fire Department’s Fire Prevention Policy Number 1-9 on Portable Propane Heaters, and (iii) secures or removes the propane heater(s) every day upon closing of the business. Table lamps using liquid fuel, candles, or any fixtures other than a propane heater using an open flame are not permitted. Lighting fixtures may also be temporarily affixed to the exterior portion of the building occupied by the restaurant facing the outdoor dining area, provided that any such lighting meets applicable California Electrical Code standards and any required building permits are obtained. Other decorative lighting plugged into a legal outlet is also permitted, provided that such lighting is strung overhead, maintains height clearance for sidewalk or pedestrian passage, and the electrical cord is not placed on the sidewalk, or if it is not feasible to string the lighting overhead, any extension cord must be covered with a flat and bright extension cord cover that is ADA accessible. . Barriers are not permitted, except for temporary barriers required by ABC pursuant to the Fourth Notice of Regulatory Relief issued on May 15, 2020. Any such temporary barriers, if used, must be removed along with all other temporary furnishings (other than those specifically exempted by this subsection) every day upon closing of the outdoor dining service, and must comply with the requirements imposed on use of other furnishings by subsection h below.

- g. A single, non-permanent sign with the restaurant's name and an attached menu may be placed within the outdoor dining area in an area visible to pedestrians on the sidewalk or adjacent pedestrian area. This sign shall be removed along with all other temporary furnishings (other than those specifically exempted by subsection f) upon closing of the outdoor dining service and must comply with the requirements imposed on use of other furnishings by subsection h below.
- h. Temporary furnishings, signs, propane heaters, and temporary barriers used for outdoor dining shall not block any portion of the full width of any legal exit from the building or any exit path from such legal exit to the public right of way. A minimum of a 44-inch wide exit path is required to be maintained from each legal exit from the building to the public right of way.
- i. Outdoor dining areas are for sit-down food and beverage service only; no stand-up service is permitted.
- j. No structure or enclosure to accommodate the storage of trash or garbage shall be erected or placed on, adjacent to, or separate from the outdoor dining area on the public sidewalk or right-of-way. Outdoor dining areas shall be kept clear of litter at all times and must be cleaned (swept and mopped) with all litter removed each day upon closing of the outdoor dining service. The outdoor dining area shall be maintained by the restaurant, at its sole cost, in a clean and orderly manner at all times. All food or drink spills must be immediately removed from the sidewalk area.
- k. Hours of operation of the outdoor dining area shall not exceed the hours of operation of the associated restaurant, subject to limitations on alcohol sales set forth in all applicable permits, license, and regulations.
- l. Any outdoor dining area use shall be in compliance with the noise restrictions in Chapter 4.12 of the Santa Monica Municipal Code.
- m. All forms of speaker amplification are prohibited in association with the outdoor dining permitted under this Section.
- n. The area used for outdoor dining authorized by this Order (including, as applicable, any outdoor dining in a private outdoor space or in a parklet) may not exceed the area necessary, in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home order, including any amendments and successors thereto, to permit the combined occupancy of inside dining and outdoor dining to match the maximum occupancy of the restaurant, including any previously permitted outdoor dining area, prior to imposition of the social distancing and infection control protocols.
- o. In the event the restaurant seeks to use sidewalk space in front of an adjacent tenant space(s) or building(s), the restaurant shall obtain prior written consent from the

property owner or tenant of the adjacent building and furnish such consent to the City upon request.

- p. The City maintains the right to verify the square footage of the temporary outdoor dining area and to make periodic inspections of the sidewalk used for temporary outdoor dining at any time and without notice to the restaurant.
- q. The restaurant shall, (i) in the event of an emergency, as determined by the City, immediately remove any temporary furnishings, signs, propane heaters, and temporary barriers; or (ii) if not an emergency, remove any temporary furnishings, signs, propane heaters, and temporary barriers within 48 hours of the City's written request. If the restaurant fails to timely remove its temporary furnishings, signs, propane heaters, and temporary barriers as required by this Section, the City may, at the restaurant's expense, remove the temporary furnishings, signs, propane heaters, and temporary barriers and recover its costs for its work from the restaurant.
- r. For temporary outdoor dining pursuant to Sections 19 through 29 of this Order on any sidewalk (including any portion of the Pier), the City reserves the right to modify, through amending any regulations promulgated pursuant to Section 27, the portions of the sidewalk (including portions of the Pier) that may be utilized for temporary outdoor dining, including eliminating portions for temporary outdoor dining entirely. Any restaurant utilizing such portions of the sidewalk (including portions of the Pier) for temporary outdoor dining shall, as applicable, modify or cease their temporary outdoor dining operations no later than 10 days after the Director of the Community Development Department or designee has provided written notice to the restaurant of the amended regulations.
- s. The City reserves the right to terminate or suspend immediately any Temporary COVID-19 Outdoor Encroachment Agreement if the City determines that there is an emergency situation that poses a risk to the public health, safety or welfare. In such a case, City will provide written notice of termination or suspension as soon as reasonably possible.
- t. Either the City or the restaurant may at any time, without cause, terminate the Temporary COVID-19 Outdoor Encroachment Agreement on 30 days' prior written notice to the other party.
- u. Compliance with all applicable laws and regulations, including, but not limited to, the American with Disabilities Act.
- v. Compliance with minimum insurance requirements for outdoor dining activities taking place on the sidewalk as permitted in this Order, as set forth in the Temporary COVID-19 Outdoor Encroachment Agreement or, if applicable, temporary permit.
- w. Compliance with any other condition(s) required by regulations promulgated pursuant to Section 27.

24. Sections 3.12.360, 4.68.040, 5.06.020, 6.116.010, and provisions of Article IX of the Santa Monica Municipal Code, or any conditions to permits previously issued by the City, including, but not limited to, parking requirements (except for those relating to accessible parking) and maximum floor area ratio, are hereby temporarily suspended to the extent necessary to accommodate temporary outdoor dining activities authorized by this Order.

25. If a tenant has granted consent under Section 23(o), nothing in this Order relieves that tenant from any obligation or laws relating to any consent required of the property owner.

26. No earlier than November 1, 2020 and after the City has provided 30 days notice to restaurants that have entered into a Temporary COVID-19 Outdoor Encroachment Agreement or, if applicable, obtained a temporary permit for outdoor dining as authorized by this Order, the City is authorized to assess a monthly fee for temporary outdoor dining on the sidewalk to restaurants. Such a fee shall (i) be due on the first of each month and, if not received by the City within three days after it is due, be subject to a 10% late charge; (ii) be based on the square footage of the temporary outdoor dining area, and (iii) comply with the rates for “Outdoor Dining Area without a Barrier,” as adjusted annually in accordance with the Consumer Price Index, as set forth in Resolution No. 10586 (CCS), adopted by the City Council on June 21, 2011. The rate for any restaurant operating on portions of the Pier designated for temporary outdoor dining shall be the same as the rate identified in Resolution No. 10586 (CCS) for “Other Streets.” Notwithstanding the foregoing, the City may not assess a fee for any month if, as of the first of that month, the County Department of Public Health’s Safer at Home Order has not authorized restaurants to resume indoor operations at 50% or greater occupancy. For purposes of clarity, the monthly rate per square foot for “Outdoor Dining Area without a Barrier” in 2020 is as follows:

Location	Outdoor Dining Area without a Barrier
Transit Mall (Santa Monica Boulevard/Broadway)	\$2.66
Ocean Avenue	\$2.48
Montana Avenue	\$2.20
Wilshire Boulevard	\$2.12
Main Street	\$2.12
Ocean Park Boulevard	\$2.12
Pico Boulevard	\$2.12
Other Streets	\$2.12

27. The Director of the Community Development Department or designee may promulgate regulations to implement Sections 19 through 26 of this Order. Such regulations may include, but are not limited to, the imposition of an application or permit fee, restrictions on hours of

operation, and additional conditions for conducting the temporary outdoor dining use authorized by this Order.

28. The City, in its sole and complete discretion, may suspend or revoke any temporary outdoor dining use authorized by Sections 19 through 29 of this Order for, among other things, any failure to comply with: (a) the conditions as set forth in Section 23 of this Order; (b) the payment provision in Section 26; (c) any regulations issued pursuant to Section 27 of this Order, (d) any other applicable law.

29. In addition to or in lieu of any suspension or revocation pursuant to Section 28, Sections 19 through 23 and any regulations promulgated under Section 27 of this Order (collectively, the “temporary use restrictions”) shall be enforceable by an Enforcement Officer, as that term is defined by Santa Monica Municipal Code Section 1.09.020, through the issuance of an administrative citations in accordance with Chapter 1.09 of the Santa Monica Municipal Code. Pursuant to Section 1.09.040 of the Santa Monica Municipal Code, the amount of the fine for a violation of any provision of the temporary use restrictions by a restaurant shall be: \$500 for the first violation; \$750 for a second violation committed within one year for the first violation; and \$1000 for a third violation or subsequent violations committed within one year of the first violation. Each day or portion of a day that any person violates or continues to violate any provision of the temporary use restrictions constitutes a separate violation and may be charged and punished separately.

Temporary Outdoor Dining Extension for Third Street Promenade

30. The definitions in Santa Monica Municipal Code Section 9.52.020 apply to the words and phrases used in Sections 30 through 40 of this Order. In addition, as used in Sections 30 through 40 of this Order:

- a. “Promenade outdoor dining area” means any portion of the sidewalk or roadway in the Third Street Promenade that is designated for temporary outdoor dining pursuant to regulations promulgated by the Director of the Community Development Department or designee.
- b. “Restaurants” mean restaurants, full-service, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(b), or restaurants, limited-service and take-out, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(c).

31. Sections 30 through 40 of this Order apply to legally established restaurants on the Third Street Promenade that either (a) have an existing outdoor dining permit or (b) have entered into a temporary outdoor encroachment agreement or received a temporary permit from the Director of the Community Development Department or designee for any outdoor dining permitted under this Eighteenth Supplement that encroaches on the Promenade outdoor dining area. The Director of the Community Development Department or designee shall be authorized to draft and enter into a temporary outdoor encroachment agreement with an applicant restaurant and may choose to enter into such agreement on such terms as the Director or designee deems necessary and to require the submission of additional information or supporting data to ensure ongoing protection

of public health and safety of the City. In lieu of a temporary outdoor encroachment agreement, the Director of the Community Development Department or designee is authorized to issue a permit for temporary outdoor dining that encroaches on the Promenade outdoor dining area.

32. Restaurants that are permitted to open for on-site food service by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto, and that do open for on-site food service in accordance with such orders and any and all social distancing and infection control protocols imposed by such orders, shall be permitted to use the Promenade outdoor dining area in accordance with the conditions set forth in Section 34 of this Order.

33. Restaurants on the Third Street Promenade with existing outdoor dining permits shall use the space covered by the existing outdoor dining permit in accordance with: (a) all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto; and (b) all conditions of the existing outdoor dining permit. Alcohol may be served only by restaurants that: (a) have obtained and are operating under a license to sell alcoholic beverages from the California Department of Alcoholic Beverage Control ("ABC"); and (b) have obtained and are operating under a Conditional Use Permit or Alcohol Exemption issued by the City, or are operating as an existing alcohol outlet without a Conditional Use Permit pursuant to Section 9.31.040 of the Santa Monica Municipal Code. Sales of alcohol shall be conducted in accordance with all requirements and conditions set forth in such licenses and permits, as may be modified by any Notices of Regulatory Relief issued by ABC, the Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring a Local Emergency issued on March 21, 2020, Interim Zoning Ordinance Numbers 2636 (CCS) and 2637, adopted by the City Council on May 12, 2020, and any successors thereto.

34. Restaurants on the Third Street Promenade without existing outdoor dining permits and restaurants that seek to use the Promenade outdoor dining area that exceeds any area covered by an existing outdoor dining permit may conduct any such outdoor dining subject to all of the following conditions:

- a. The restaurant must enter into a temporary outdoor encroachment agreement with the City or, if elected by the Director of the Community Development Department or designee pursuant to Section 31, obtain a permit for use of the Promenade outdoor dining area as authorized by this Order. Any certificate issued by the City for the temporary use of outdoor areas shall be displayed by the restaurant during business hours.
- b. Outdoor dining must be conducted in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto.
- c. Outdoor dining authorized by this Order shall be conducted as a temporary accessory use to a legally established restaurant that is located on the parcel, on an

adjacent parcel, or, if the outdoor dining is conducted on a sidewalk, adjacent to the outdoor dining space. Nothing in this Order shall be considered an entitlement or permit for use of an outdoor dining and seating area, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(9), or to confer any vested rights to any ongoing or continuing activities beyond the expiration of this Order .

- d. Adequate pedestrian access on the sidewalk and roadway in the Third Street Promenade must be provided and maintained, which is considered to be no less than five (5) feet of unobstructed access.
- e. Alcohol may be served only by restaurants that: (i) have obtained and are operating under a license to sell alcoholic beverages from ABC; and (ii) have obtained and are operating under a Conditional Use Permit or Alcohol Exemption issued by the City, or are operating as an existing alcohol outlet without a Conditional Use Permit pursuant to Section 9.31.040 of the Santa Monica Municipal Code. Sales shall be conducted in accordance with all requirements and conditions set forth in such licenses and permits, as may be modified by any Notices of Regulatory Relief issued by ABC, the Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring a Local Emergency issued on March 21, 2020, Interim Zoning Ordinance Numbers 2636 (CCS) and 2637, adopted by the City Council on May 12, 2020, and any successors thereto.
- f. Furnishings for outdoor dining in the Promenade outdoor dining area are limited to movable tables, chairs, floor coverings, umbrellas or canopies that are secured and maintain the height clearance for sidewalk or pedestrian passage, and electric cordless lighting (collectively, “temporary furnishings”). Any canopy (i) must have all sides open (i.e., it cannot be an enclosed tent), (ii) must be sufficiently secured to meet wind load requirements, (iii) may not exceed 700 square feet, and (iv) may not be utilized in close proximity to a propane heater (e.g., a propane heater may not be placed underneath a canopy). All temporary furnishings, other than tables and chairs, shall be removed every day upon closing of the outdoor dining service. Any tables and chairs not removed upon closing of business shall be secured against the building and leave at least five (5) feet of unobstructed access on the sidewalk. In addition to the temporary furnishings above, propane heaters are permitted so long as the restaurant (i) has an existing or obtains a propane heater permit from the Santa Monica Fire Department, (ii) complies with the Santa Monica Fire Department’s Fire Prevention Policy Number 1-9 on Portable Propane Heaters, and (iii) secures or removes the propane heater(s) every day upon closing of the business. Table lamps using liquid fuel, candles, or any fixtures other than a propane heater using an open flame are not permitted.. Lighting fixtures may also be temporarily affixed to the exterior portion of the building occupied by the restaurant facing the Promenade outdoor dining area, provided that any such lighting meets applicable California Electrical Code standards and any required building permits are obtained. Other decorative lighting plugged into a legal outlet is also permitted, provided that such lighting is strung overhead, maintains height clearance for sidewalk or pedestrian passage, and the electrical cord is not placed on

the sidewalk, or if it is not feasible to string the lighting overhead, any extension cord must be covered with a flat and bright extension cord cover that is ADA accessible. Barriers are not permitted, except for temporary barriers required by ABC pursuant to the Fourth Notice of Regulatory Relief issued on May 15, 2020. Any such temporary barriers, if used, must be removed along with all other temporary furnishings (other than those specifically exempted by this subsection) every day upon closing of the outdoor dining service, and must comply with the requirements imposed on use of other furnishings by subsection h below.

- g. A single, non-permanent sign with the restaurant's name and an attached menu may be placed within the Promenade outdoor dining area in an area visible to pedestrians on the sidewalk or roadway in the Third Street Promenade or adjacent pedestrian area. This sign shall be removed along with all other temporary furnishing (other than those specifically exempted by subsection f) upon closing of the outdoor dining service and must comply with the requirements imposed on use of other furnishings by subsection h below.
- h. Temporary furnishings, signs, propane heaters, and temporary barriers used for outdoor dining shall not block any portion of the full width of any legal exit from the building or any exit path from such legal exit to the public right of way. A minimum of a 44-inch wide exit path is required to be maintained from each legal exit from the building to the public right of way.
- i. Promenade outdoor dining areas are for sit-down food and beverage service only; no stand-up service is permitted.
- j. No structure or enclosure to accommodate the storage of trash or garbage shall be erected or placed on, adjacent to, or separate from the Promenade outdoor dining area on the public sidewalk, roadway, or right-of-way. Promenade outdoor dining areas shall be kept clear of litter at all times and must be cleaned (swept and mopped) with all litter removed each day upon closing of the outdoor dining service. The outdoor dining area shall be maintained by the restaurant, at its sole cost, in a clean and orderly manner at all times. All food or drink spills must be immediately removed from the sidewalk area.
- k. Hours of operation of the Promenade outdoor dining area shall not exceed the hours of operation of the associated restaurant, subject to limitations on alcohol sales set forth in all applicable permits, license, and regulations.
- l. Any Promenade outdoor dining area use shall be in compliance with the noise restrictions in Chapter 4.12 of the Santa Monica Municipal Code.
- m. All forms of speaker amplification are prohibited in association with the outdoor dining permitted under this Section.
- n. The Promenade outdoor dining area may not exceed the area necessary, in accordance with all social distancing and infection control protocols imposed by

applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home order, including any amendments and successors thereto, to permit the combined occupancy of inside dining and outdoor dining to match the maximum occupancy of the restaurant, including any previously permitted outdoor dining areas, prior to imposition of the social distancing and infection control protocols.

- o. In the event the restaurant seeks to use Promenade outdoor dining area space in front of an adjacent or neighboring tenant space(s) or building(s), the restaurant shall obtain prior written consent from the property owner or tenant of the adjacent or neighboring building and furnish such consent to the City upon request.
- p. The City maintains the right to verify the square footage of the Promenade outdoor dining area and to make periodic inspections of the Promenade outdoor dining area at any time and without notice to the restaurant.
- q. The restaurant shall, (i) in the event of an emergency, as determined by the City, immediately remove any temporary furnishings, signs, propane heaters, and temporary barriers; or (ii) if not an emergency, remove any temporary furnishings, signs, propane heaters, and temporary barriers within 48 hours of the City's written request. If the restaurant fails to timely remove its temporary furnishings, signs, propane heaters, or temporary barriers as required by this Section, the City may, at the restaurant's expense, remove the temporary furnishings, signs, propane heaters, and temporary barriers and recover its costs for its work from the restaurant.
- r. The City reserves the right to modify, through amending any regulations promulgated pursuant to Section 38, the portions of the sidewalk or roadway in the Third Street Promenade that is designated as Promenade outdoor dining area, including eliminating portions for temporary outdoor dining entirely. Any restaurant utilizing such portions of the Promenade outdoor dining area, shall, as applicable, modify or cease their temporary outdoor dining operations no later than 10 days after the Director of the Community Development Department or designee has provided written notice to the restaurant of the amended regulations.
- s. The City reserves the right to terminate or suspend immediately any temporary outdoor encroachment agreement if the City determines that there is an emergency situation that poses a risk to the public health, safety or welfare. In such a case, City will provide written notice of termination or suspension as soon as reasonably possible
- t. Either the City or the restaurant may at any time, without cause, terminate the temporary outdoor encroachment agreement on 30 days' prior written notice to the other party.
- u. Compliance with all applicable laws and regulations, including, but not limited to, the American with Disabilities Act.

- v. Compliance with minimum insurance requirements, as set forth in the temporary outdoor encroachment agreement or, if applicable, permit.
- w. Compliance with any other condition(s) required by regulations promulgated pursuant to Section 38.

35. Sections 3.12.360, 4.68.040, 5.06.020, 6.116.010, and provisions of Article IX of the Santa Monica Municipal Code, or any conditions to permits previously issued by the City, including, but not limited to, parking requirements (except for those relating to accessible parking) and maximum floor area ratio, are hereby temporarily suspended to the extent necessary to accommodate temporary outdoor dining activities authorized by this Order.

36. If a tenant has granted consent under Section 34(o), nothing in this Order relieves that tenant from any obligation or laws relating to any consent required of the property owner.

37. No earlier than November 1, 2020 and after the City has provided 30 days notice to restaurants that have entered into a temporary outdoor encroachment agreement or, if applicable, obtained a temporary permit for outdoor dining as authorized by this Order, the City is authorized to assess a monthly fee for use of the Promenade outdoor dining area to restaurants. Such a fee shall (i) be due on the first of each month and, if not received by the City within three days after it is due, be subject to a 10% late charge; (ii) be based on the square footage of the Promenade outdoor dining area utilized by the restaurant, and (iii) comply with the rates for “Outdoor Dining Area without a Barrier,” as adjusted annually in accordance with the Consumer Price Index, as set forth in Resolution No. 10586 (CCS), adopted by the City Council on June 21, 2011. Notwithstanding the foregoing, the City may not assess a fee for any month if, as of the first of that month, the County Department of Public Health’s Safer at Home Order has not authorized restaurants to resume indoor operations at 50% or greater occupancy. For purposes of clarity, the monthly rate per square foot for “Outdoor Dining Area without a Barrier” in 2020 for the Third Street Promenade is \$2.66 per square foot.

38. The Director of the Community Development Department or designee may promulgate regulations to implement Sections 30 through 37 of this Order. Such regulations may include, but are not limited to, the imposition of an application or permit fee, restrictions on hours of operation, and additional conditions for conducting the temporary outdoor dining use authorized by this Order.

39. The City, in its sole and complete discretion, may suspend or revoke any temporary outdoor dining use authorized by Sections 30 through 40 of this Order, for, among other things, any failure to comply with: (a) the conditions as set forth in Section 34; (b) the payment provision in Section 37; (c) any regulations issued pursuant to Section 38 of this Order, or (d) any other applicable law.

40. In addition to or in lieu of any suspension or revocation pursuant to Section 39, Sections 30 through 34 and any regulations promulgated under Section 38 of this Order (collectively, the “temporary use restrictions”) shall be enforceable by an Enforcement Officer, as that term is defined by Santa Monica Municipal Code Section 1.09.020, through the issuance of an administrative citations in accordance with Chapter 1.09 of the Santa Monica Municipal Code.

Pursuant to Section 1.09.040 of the Santa Monica Municipal Code, the amount of the fine for a violation of any provision of the temporary use restrictions by a restaurant shall be: \$500 for the first violation; \$750 for a second violation committed within one year for the first violation; and \$1000 for a third violation or subsequent violations committed within one year of the first violation. Each day or portion of a day that any person violates or continues to violate any provision of the temporary use restrictions constitutes a separate violation and may be charged and punished separately.

Temporary Outdoor Business Activity Use Extension

41. The definitions in Santa Monica Municipal Code Section 9.52.020 apply to the words and phrases used in Sections 41 through 51 of this Order. In addition, as used in Sections 41 through 51 of this Order:

- a. “Eligible business” means the business has a current business license with the City and has received any necessary entitlements from the City to operate and the use is a non-residential use classification and is permitted or conditionally permitted in the district, other than a liquor store or automobile/vehicle service and repair, minor or major, as those terms are defined by Santa Monica Municipal Code Section 9.51.030.
- b. “Sidewalk” means (i) a “sidewalk,” as that term is defined by Santa Monica Municipal Code Section 9.52.020.2250, (ii) any portion of the Santa Monica Pier, as that term is defined by Santa Monica Municipal Code Section 6.36.020, that is designated for temporary eligible business activity pursuant to regulations promulgated by the Director of the Community Development Department or designee, or (iii) any portion of the sidewalk in the Third Street Promenade.

42. Sections 41 through 51 of this Order apply to legally established eligible businesses, that have entered into a temporary outdoor encroachment agreement with the City or obtained a temporary permit for outdoor eligible business activities permitted under this Order that encroaches on the sidewalk.

43. Eligible businesses that are permitted to open by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health’s Safer at Home Order, including any amendments and successors thereto, and that do open in accordance with such orders and any and all social distancing and infection control protocols imposed by such orders, shall be permitted to use the sidewalk area adjacent to the eligible business in accordance with the conditions set forth in Section 44.

44. An eligible business may utilize the sidewalk area adjacent to the eligible business subject to all of the following conditions:

- a. For any encroachment on the sidewalk, eligible businesses must enter into a temporary outdoor encroachment agreement with the City or, if elected by the Director of the Community Development Department or designee pursuant to Section 47, obtain a permit for such encroachment. Any certificate issued by the

City for the temporary use of outdoor areas shall be displayed by the eligible business during business hours.

- b. All eligible business activity must be conducted in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto.
- c. Eligible business activity authorized by this Order shall be conducted as a temporary accessory use to a legally established business that is located on the parcel, on an adjacent parcel, or, if the eligible business activity is conducted on a sidewalk, adjacent to the eligible business. Nothing in this Order shall be considered an entitlement or permit for permanent use of any sidewalk area or to confer any vested rights to any ongoing or continuing activities beyond the expiration of this Order.
- d. Adequate pedestrian access on the sidewalk must be provided and maintained, which is considered to be no less than five (5) feet of unobstructed access.
- e. Furnishings for outdoor eligible business activities authorized by this Order are limited to movable tables, chairs, bookcases, floor covering, exercise equipment, planter boxes, garment racks, displays of merchandise, umbrellas or canopies that are secured and maintain the height clearance for sidewalk or pedestrian passage, electric cordless lighting, and other temporary décor (collectively, "temporary furnishings"). Any canopy (i) must have all sides open (i.e., it cannot be an enclosed tent), (ii) must be sufficiently secured to meet wind load requirements, (iii) may not exceed 700 square feet, and (iv) may not be utilized in close proximity to a propane heater (e.g., a propane heater may not be placed underneath a canopy). All temporary furnishings, other than tables and chairs, shall be removed every day upon closing of the eligible business. Any tables and chairs not removed upon closing of business shall be secured against the building and leave at least five (5) feet of unobstructed access on the sidewalk. In addition to the temporary furnishings above, propane heaters are permitted so long as the eligible business (i) has an existing or obtains a propane heater permit from the Santa Monica Fire Department, (ii) complies with the Santa Monica Fire Department's Fire Prevention Policy Number 1-9 on Portable Propane Heaters, and (iii) secures or removes the propane heater(s) every day upon closing of the business. Table lamps using liquid fuel, candles, or any fixtures other than a propane heater using an open flame are not permitted. Lighting fixtures may be temporarily affixed to the exterior portion of the building occupied by the eligible business facing the outdoor eligible business activity, provided that any such lighting meets applicable California Electrical Code standards and any required building permits are obtained. Other decorative lighting plugged into a legal outlet is also permitted, provided that such lighting is strung overhead, maintains height clearance for sidewalk or pedestrian passage, and the electrical cord is not placed on the sidewalk, or if it is not feasible to string the lighting overhead, any extension cord must be covered with a flat and

bright extension cord cover that is ADA accessible. All temporary furnishings (unless otherwise exempted by this subsection) shall be removed every day upon closing of the eligible business. Barriers are not permitted.

- f. A single, non-permanent sign with the eligible business's name may be placed within the outdoor eligible business activity area in an area visible to pedestrians on the sidewalk or adjacent pedestrian area. This sign shall be removed along with all other temporary furnishings (other than those specifically exempted by subsection e) upon closing of the business and must comply with the requirements imposed on use of other furnishings by subsection g below.
- g. Temporary furnishings and signs used for eligible business activity shall not block any portion of the full width of any legal exit from the building or any exit path from such legal exit to the public right of way. A minimum of a 44-inch wide exit path is required to be maintained from each legal exit from the building to the public right of way.
- h. No structure or enclosure to accommodate the storage of trash or garbage shall be erected or placed on, adjacent to, or separate from the outdoor eligible business activity area on the public sidewalk or right-of-way. Outdoor eligible business activity areas shall be kept clear of litter at all times and must be cleaned (swept and mopped) with all litter removed each day upon closing of the eligible business. The outdoor eligible business activity area shall be maintained by the eligible business, at its sole cost, in a clean and orderly manner at all times. All food or drink spills must be immediately removed from the sidewalk area.
- i. Hours of operation of the outdoor eligible business activity area shall not exceed the hours of operation of the associated eligible business.
- j. Any outdoor eligible business activity area use shall be in compliance with the noise restrictions in Chapter 4.12 of the Santa Monica Municipal Code.
- k. All forms of speaker amplification are prohibited in association with the outdoor eligible business activity permitted under this Section.
- l. The area used for outdoor eligible business activity (including, as applicable, any eligible business activity in a parklet or private outdoor space) may not exceed the area necessary, in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home order, including any amendments and successors thereto, to permit the combined occupancy of inside eligible business and outdoor eligible business activity to match the maximum occupancy of the eligible business, prior to imposition of the social distancing and infection control protocols.
- m. All merchandise or services displayed in the sidewalk shall be of the same types ordinarily sold indoors at the associated eligible business.

- n. In the event the eligible business seeks to use sidewalk space in front of an adjacent tenant space(s) or building(s), the eligible business shall obtain prior written consent from the property owner or tenant of the adjacent building and furnish such consent to the City upon request.
- o. The City maintains the right to verify the square footage of the temporary outdoor eligible business activity area and to make periodic inspections of the sidewalk used for temporary outdoor eligible business activity at any time and without notice to the eligible business.
- p. The eligible business shall, (i) in the event of an emergency, as determined by the City, immediately remove any temporary furnishings, signs, and propane heaters; or (ii) if not an emergency, remove any temporary furnishings, signs, and propane heaters within 48 hours of the City's written request. If the eligible business fails to timely remove its temporary furnishings, signs, or propane heaters as required by this Section, the City may, at the eligible business's expense, remove the temporary furnishings, signs, propane heaters, and temporary barriers and recover its costs for its work from the eligible business.
- q. For temporary outdoor eligible business activities on the sidewalk, including any portion of the Pier or the sidewalk in the Third Street Promenade, the City reserves the right to modify, through amending any regulations promulgated pursuant to Section 49, the portions of the sidewalk (including any portion of the Pier or the sidewalk in the Third Street Promenade) that may be utilized for temporary outdoor eligible business activities, including eliminating portions for temporary outdoor eligible business activities entirely. Any eligible business utilizing such portions of the sidewalk (including any portion of the Pier or the sidewalk in the Third Street Promenade) for temporary outdoor temporary outdoor eligible business activities shall, as applicable, modify or cease their temporary outdoor eligible business activities operations no later than 10 days after the Director of the Community Development Department or designee has provided written notice to the eligible business of the amended regulations.
- r. The City reserves the right to terminate or suspend immediately any temporary outdoor encroachment agreement if the City determines that there is an emergency situation that poses a risk to the public health, safety or welfare. In such a case, City will provide written notice of termination or suspension as soon as reasonably possible
- s. Either the City or the eligible business may at any time, without cause, terminate the temporary outdoor encroachment agreement on 30 days' prior written notice to the other party.
- t. Compliance with all applicable laws and regulations, including, but not limited to, the American with Disabilities Act.

- u. Compliance with minimum insurance requirements for eligible business activities taking place on the sidewalk as permitted in this Order, as set forth in the temporary outdoor encroachment agreement or, if applicable, temporary permit.
- v. Compliance with any other condition(s) required by regulations promulgated pursuant to Section 49.

45. Sections 3.12.360, 4.68.040, 5.06.020, 6.116.010, and provisions of Article IX of the Santa Monica Municipal Code, or any conditions to permits previously issued by the City, including, but not limited to, parking requirements (except for those relating to accessible parking) and maximum floor area ratio, are hereby temporarily suspended to the extent necessary to accommodate temporary outdoor eligible business activities authorized by this Order. Notwithstanding the foregoing, eligible businesses shall comply with the requirements of Santa Monica Municipal Code 9.31.060, 9.31.070, 9.31.080, and 9.31.340, to the extent applicable to that eligible business.

46. If a tenant has granted consent under Section 44(n), nothing in this Order relieves that tenant from any obligation or laws relating to any consent required of the property owner.

47. The Director of the Community Development Department or designee shall be authorized to draft and enter into a temporary outdoor encroachment agreement with an applicant eligible business governing outdoor eligible business activity and may choose to enter into such agreement on such terms as the Director or designee deems necessary and to require the submission of additional information or supporting data to ensure ongoing protection of public health and safety of the City. In lieu of a temporary outdoor encroachment agreement, the Director of the Community Development Department or designee is authorized to issue a permit for temporary outdoor eligible business activities that encroach on the sidewalk.

48. No earlier than November 1, 2020 and after the City has provided 30 days notice to eligible businesses that have entered into a temporary outdoor encroachment agreement or, if applicable, obtained a temporary permit for outdoor eligible business activities as authorized by this Order, the City is authorized to assess a monthly fee for temporary outdoor eligible business activities on the sidewalk to eligible businesses. Such a fee shall (i) be due on the first of each month and, if not received by the City within three days after it is due, be subject to a 10% late charge; (ii) be based on the square footage of the temporary outdoor eligible business activity area on the sidewalk, and (iii) comply with the rates for “Outdoor Dining Area without a Barrier,” as adjusted annually in accordance with the Consumer Price Index, as set forth in Resolution No. 10586 (CCS), adopted by the City Council on June 21, 2011, regardless of whether the eligible business is conducting outdoor dining as opposed to other eligible business activities in the sidewalk. The rate for any eligible business operating on portions of the Pier designated for temporary outdoor eligible business activity shall be the same as the rate identified in Resolution No. 10586 (CCS) for “Other Streets.” Notwithstanding the foregoing, the City may not assess a fee for any month if, as of the first of that month, the County Department of Public Health’s Safer at Home Order has not authorized the particular eligible business to resume indoor operations at 50% or greater occupancy. For purposes of clarity, the monthly rate per square foot for “Outdoor Dining Area without a Barrier” in 2020 is as follows:

Location	Outdoor Dining Area without a Barrier
3rd Street Promenade	\$2.66
Transit Mall (Santa Monica Boulevard/Broadway)	\$2.66
Ocean Avenue	\$2.48
Montana Avenue	\$2.20
Wilshire Boulevard	\$2.12
Main Street	\$2.12
Ocean Park Boulevard	\$2.12
Pico Boulevard	\$2.12
Other Streets	\$2.12

49. The Director of the Community Development Department or designee may promulgate regulations to implement Sections 41 through 48 of this Order. Such regulations may include, but are not limited to, the imposition of an application or permit fee, restrictions on hours of operation, and additional conditions for conducting the temporary outdoor eligible business activity use authorized by this Order.

50. The City, in its sole and complete discretion, may suspend or revoke any temporary outdoor eligible business activity use authorized by Sections 41 through 51 of this Order, for, among other things, any failure to comply with: (a) the conditions as set forth in Section 44; (b) the payment provision in Section 48; (c) any regulations issued pursuant to Section 49 of this Order, or (d) any other applicable law.

51. In addition to or in lieu of any suspension or revocation pursuant to Section 50, Sections 41 through 44 and any regulations promulgated under Section 49 of this Order (collectively, the “temporary use restrictions”) shall be enforceable by an Enforcement Officer, as that term is defined by Santa Monica Municipal Code Section 1.09.020, through the issuance of an administrative citations in accordance with Chapter 1.09 of the Santa Monica Municipal Code. Pursuant to Section 1.09.040 of the Santa Monica Municipal Code, the amount of the fine for a violation of any provision of the temporary use restrictions by an eligible business shall be: \$500 for the first violation; \$750 for a second violation committed within one year for the first violation; and \$1000 for a third violation or subsequent violations committed within one year of the first violation. Each day or portion of a day that any person violates or continues to violate any provision of the temporary use restrictions constitutes a separate violation and may be charged and punished separately.

Temporary Parklet Authorization

52. The definitions in Santa Monica Municipal Code Section 9.52.020 apply to the words and phrases used in Sections 52 through 67 of this Order. In addition, as used in Sections 52 through 67 of this Order:

- a. “Common area” means areas outside of the parklet and that are within the public right-of-way that are under the control of a Business Improvement District that has entered into a temporary outdoor encroachment agreement or obtained a temporary permit as authorized by this Order.
- b. “Eligible business” means the business has a current business license with the City and has received any necessary entitlements from the City to operate and the use is a non-residential use classification and is permitted or conditionally permitted in the district, other than a liquor store or automobile/vehicle service and repair, minor or major, as those terms are defined by Santa Monica Municipal Code Section 9.51.030.
- c. “Parklet” means the use of public parking space(s) (other than accessible parking spaces) or a loading space located in the public right-of-way that are adjacent to each other and at least one of which is adjacent to the eligible business. For purposes of clarity, there may be no parklets on the Third Street Promenade or the Pier.
- d. “Pilot program parklet” means a City-installed parklet, as part of the Parklet Pilot Program approved by Council, in the public right-of-way adjacent to its operator’s principal place of business.
- e. “Restaurants” mean restaurants, full-service, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(b), or restaurants, limited-service and take-out, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(c).

53. Sections 52 through 67 of this Order apply to either an individual eligible business or a Business Improvement District that has entered into a temporary outdoor encroachment agreement or obtained a temporary permit for, as applicable, its individual eligible business or eligible businesses or common areas within the Business Improvement District for temporary use of a parklet or parklets as permitted under this Order.

54. Eligible businesses that are permitted to open by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health’s Safer at Home Order, including any amendments and successors thereto, and that do open in accordance with such orders and any and all social distancing and infection control protocols imposed by such orders, shall be permitted to use a parklet in accordance with the conditions set forth in Section 55 and the design and safety specifications in Section 56 of this Order.

55. An eligible business may utilize a parklet subject to all of the following conditions:

- a. The eligible business or the applicable Business Improvement District must enter into a temporary outdoor encroachment agreement with the City or, if elected by the Director of the Community Development Department or designee pursuant to Section 61, obtain a permit for use of the parklet as authorized by this Order. Any certificate issued by the City for the temporary use of outdoor areas shall be displayed by the eligible business during business hours.
- b. All eligible business activity must be conducted in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto.
- c. Eligible business activity authorized by this Order shall be conducted as a temporary accessory use to a legally established business that is located adjacent to the parklet. Nothing in this Order shall be considered an entitlement or permit for permanent use of any temporary parklet, including, but not limited to, a permit for outdoor dining and seating area, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(9), or to confer any vested rights to any ongoing or continuing activities beyond the expiration of this Order. The eligible business's use of the parklet is temporary and does not constitute an abandonment, whether express or implied, by the City of any of its rights associated with the statutory and customary purposes and use of any operations in the public rights-of-way.
- d. Adequate pedestrian access on the sidewalk adjacent to the parklet must be provided and maintained, which is considered to be no less than five (5) feet of unobstructed access.
- e. Alcohol may be served in the parklet only by restaurants that: (i) have obtained and are operating under a license to sell alcoholic beverages from ABC; and (ii) have obtained and are operating under a Conditional Use Permit or Alcohol Exemption issued by the City, or are operating as an existing alcohol outlet without a Conditional Use Permit pursuant to Section 9.31.040 of the Santa Monica Municipal Code. Sales shall be conducted in accordance with all requirements and conditions set forth in such licenses and permits, as may be modified by any Notices of Regulatory Relief issued by ABC, the Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring a Local Emergency issued on March 21, 2020, Interim Zoning Ordinance Numbers 2636 (CCS) and 2637, adopted by the City Council on May 12, 2020, and any successors thereto.
- f. Furnishings utilized in the parklet or common area, other than traffic barriers required by or decks authorized under Section 56, are limited to movable tables, chairs, bookcases, floor covering, exercise equipment, planter boxes, garment racks, displays of merchandise, umbrellas or canopies that are secured and maintain the

height clearance for sidewalk or pedestrian passage, electric cordless lighting, and other temporary décor (collectively, “temporary furnishings”). Any canopy (i) must have all sides open (i.e., it cannot be an enclosed tent), (ii) must be sufficiently secured to meet wind load requirements, (iii) may not exceed 700 square feet, and (iv) may not be utilized in close proximity to a propane heater (e.g., a propane heater may not be placed underneath a canopy). All temporary furnishings, other than tables and chairs, shall be removed every day upon closing of the eligible business. Any tables and chairs not removed upon closing of business shall be (i) secured in the parklet and (ii) removed at the close of business during the weekdays of the first full week of each month for street cleaning (e.g., the week of July 6 and August 3), if the parklet is located on a block where the City has authorized the parking lane closure for an entire City block or segments thereof. In addition to the temporary furnishings above, propane heaters are permitted so long as the eligible business (i) has an existing or obtains a propane heater permit from the Santa Monica Fire Department, (ii) complies with the Santa Monica Fire Department’s Fire Prevention Policy Number 1-9 on Portable Propane Heaters, and (iii) secures or removes the propane heater(s) every day upon closing of the business. Table lamps using liquid fuel, candles, or any fixtures other than a propane heater using an open flame are not permitted. Lighting fixtures may be temporarily affixed to the exterior portion of the building occupied by the eligible business facing the parklet, provided that any such lighting meets applicable California Electrical Code standards and any required building permits are obtained. Other decorative lighting plugged into a legal outlet is also permitted, provided that such lighting is strung overhead, maintains height clearance for sidewalk or pedestrian passage, and the electrical cord is not placed on the sidewalk, or if it is not feasible to string the lighting overhead, any extension cord must be covered with a flat and bright extension cord cover that is ADA accessible.

- g. A single, non-permanent sign with the eligible business’s name and, if applicable, an attached menu for a restaurant may be placed within the parklet in an area visible to pedestrians on the sidewalk or adjacent pedestrian area. This sign shall be removed along with all other temporary furnishings (other than those specifically exempted by subsection f) upon closing of the business.
- h. Any outdoor dining in the parklet is for sit-down food and beverage service only; no stand-up service is permitted.
- i. No structure or enclosure to accommodate the storage of trash or garbage shall be erected or placed on, adjacent to, or separate from the parklet on the public sidewalk or right-of-way. The parklet shall be kept clear of litter at all times and must be cleaned (swept and mopped) with all litter removed each day upon closing of the eligible business. The parklet shall be maintained by the eligible business, at its sole cost, in a clean and orderly manner at all times. The eligible business shall also clean and maintain under and around any deck, platform, or any other structure constructed in the parklet.
- j. All food or drink spills must be immediately removed from the parklet.

- k. Hours of operation of the parklet shall not exceed the hours of operation of the associated eligible business, subject to limitations on alcohol sales set forth in all applicable permits, license, and regulations.
- l. All eligible business activity shall be in compliance with the noise restrictions in Chapter 4.12 of the Santa Monica Municipal Code.
- m. All forms of speaker amplification are prohibited.
- n. The area used for outdoor eligible business activity (including, as applicable, any eligible business activity on the sidewalk or in private outdoor space) may not exceed the area necessary, in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home order, including any amendments and successors thereto, to permit the combined occupancy of inside eligible business and outdoor eligible business activity to match the maximum occupancy of the eligible business, prior to imposition of the social distancing and infection control protocols.
- o. In the event the eligible business seeks to use parking or loading spaces in front of an adjacent or neighboring tenant space(s) or building(s) for the parklet, the eligible business shall obtain prior written consent from the property owner or tenant of the adjacent or neighboring building and furnish such consent to the City with its application for a temporary outdoor encroachment agreement or permit. For the purposes of clarity, consent is not required if the parking or loading space is substantially (i.e., greater than 50%) located in front of the eligible business. If the eligible business is unable to obtain consent from the property owner or tenant of the adjacent or neighboring building, the eligible business shall, with its application for a temporary outdoor encroachment agreement or permit: (i) explain the reason why it was unable to obtain consent and (ii) provide proof that it has provided written notice to the tenant or property owner on a form to be provided by the City of the eligible business's intent to utilize the parking or loading space as a parklet and that the tenant or property owner may contact the City within the next 5 business days after receipt of the notice regarding the proposed parklet. The City shall not act on any application to utilize the adjacent or neighboring parking or loading space as a parklet until after the 5 business day period has expired. Any decision of the City thereafter to enter into a temporary outdoor encroachment agreement or, if applicable, issue a temporary permit for a parklet in front of an adjacent or neighboring tenant space(s) or building shall be final.
- p. All merchandise or services displayed in the parklet shall be of the same types ordinarily sold indoors at the associated eligible business.
- q. As applied to Business Improvement Districts that have entered into a temporary outdoor encroachment agreement or obtained a temporary permit as authorized by this Order, the Business Improvement District shall be responsible, at its sole cost,

for the maintenance of the common areas and ensuring compliance with social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto, in the common areas.

- r. The eligible business shall at all times use due care in its operation of the parklet to avoid any causing or creating damage to the public right-of-way used for the parklet. Eligible business shall immediately inform the City of any actual or potential damage to the public right-of-way used for the parklet, and eligible business must reimburse the City within 30 days of receiving a written request for any all costs to repair such damage, if caused by eligible business.
- s. The City maintains the right to verify the square footage of the parklet and to make periodic inspections of the parklet, at any time and without notice to the eligible business.
- t. The eligible business shall, (i) in the event of an emergency, as determined by the City, immediately remove any temporary furnishings in the parklet or traffic barriers or a deck installed by the eligible business; or (ii) if not an emergency, remove any temporary furnishings in the parklet or traffic barriers or deck installed by the eligible business within 48 hours of the City's written request. If the eligible business fails to timely remove its temporary furnishings, traffic barriers, or deck as required by this Section, the City may, at the eligible business's expense, remove such furnishings, barriers, and deck from the parklet and recover its costs for its work from the eligible business.
- u. The construction of a deck in the parklet—the design and safety specifications for which are set forth in Section 56—does not confer any vested rights to any ongoing or continuing activities or use of deck beyond the expiration of this Order. The City reserves the right to require the eligible business to remove the deck in the parklet following the expiration of this Order for any reason.
- v. No structure other than a deck or traffic barriers that conforms to the design and safety specifications in Section 56 may be constructed or placed in the parklet.
- w. The City reserves the right to terminate or suspend immediately any temporary outdoor encroachment agreement if the City determines that there is an emergency situation that poses a risk to the public health, safety or welfare. In such a case, City will provide written notice of termination or suspension as soon as reasonably possible.
- x. Either the City or the eligible business may at any time, without cause, terminate the temporary outdoor encroachment agreement on 30 days' prior written notice to the other party.

- y. Compliance with all applicable laws and regulations, including, but not limited to, the American with Disabilities Act.
- z. Compliance with minimum insurance requirements, as set forth in the temporary outdoor encroachment agreement or, if applicable, temporary permit.
- aa. Compliance with any other condition(s) required by regulations promulgated pursuant to Section 65.

56. Any parklet, other than a pilot program parklet, utilized pursuant to this Order shall meet the following design and safety specifications:

- a. The parklet shall not be placed within 15 feet of a fire hydrant, otherwise cover or block any public utility infrastructure or storm drains, or impede the flow of curbside drainage. To ensure adequate clearance for any overhead and underground electrical infrastructure, parklets shall provide a minimum of 15 feet of unobstructed access unless otherwise approved by the electric utility provider. Parklets shall also not cover any City utility access points.
- b. The parklet shall not be placed in a red zone without prior approval from the City, following review of site conditions.
- c. There shall be at least one parking space between the parklet and an upstream intersection.
- d. Parklets may only be utilized in streets that have (i) a speed limit of 25 miles per hour or less, (ii) a speed limit of 30 miles per hour and either a Class II or IV bikeway, as those terms are defined by California State & Highway Code Section 890.4, or (iii) a speed limit of 30 miles per hour and do not have either a Class II or IV bikeway, only where the City has authorized a parking lane closure and the City has implemented additional design or safety specifications.
- e. The parklet shall be installed within the existing parking or loading space (typically 7-8 feet in width). Where a bikeway is not present, the parklet shall provide a one foot setback from the travel lane. If there is a bikeway present, the parklet may extend to the edge of the bikeway.
- f. A parklet may extend into the sidewalk adjacent to the eligible business, provided that minimum adequate pedestrian access on the sidewalk is provided and maintained, which is considered to be no less than five (5) feet of unobstructed access, and the parklet complies with applicable ADA restrictions. .
- g. Traffic barriers shall surround the parklet and shall meet the following requirements:
 - i. Have continuous side and end railing 36 to 42 inches high with any openings no larger than 4 inches wide. A water-filled “Jersey Barrier” or concrete “K” rail may be used, provided that it is at least 32” high. For

any parklet located on a block where the City has authorized the parking lane closure for an entire City block or segments thereof and the speed limit is either 25 mph or 30 mph with either a Class II or IV bikeway, the traffic barrier need not be continuous so long as the traffic barrier is a concrete “K” rail placed no further than eight feet apart and rope or planters are placed in the gaps between the concrete “K” rail.

- ii. If cable or flexible rail is used, such railings shall have a solid rail at the top and a solid rail at the bottom, which shall be between 5 and 10 inches high from the floor.
 - iii. The railing must be able to withstand 250 lb force in any direction.
 - iv. In addition to the railing, a planter or weighted barrier shall be placed at the upstream end of the parklet and, on streets that have a speed limit of 30 mph, planters shall be spaced along the street facing side of the parklet. Planters are preferred along the street side of the parklet in all areas. Planters may not encroach into bike lanes or vehicle travel lanes. Any such planters shall be at least 17 inches high and 12 inches wide.
 - v. Retroreflective materials shall be used on the upstream end and along the side of the barriers, including, but not limited to, vertical delineators or attachments to the parklet exterior.
- h. Each parklet shall be installed with a curb stop and a four foot separation from adjacent parking or loading spaces, provided that such spaces have not been converted into a parklet.
 - i. Temporary ramps from the sidewalk to the parklet, if required to maintain accessibility to the parklet, shall comply with the slope requirements of the California Building Code.
 - j. The parklet shall not obstruct access to existing trees and plantings.
 - k. In addition to the above standards, any deck constructed in the parklet shall meet the following requirements:
 - i. The deck shall have a non-slippery surface; loose material (such as sand or gravel) cannot be used in the parklet.
 - ii. The deck shall not be bolted into City property, including, but not limited to, the top or side of curb, sidewalk, concrete or asphalt roadway, or gutter.
 - iii. The deck shall be designed and constructed to support 100 lb per square feet live uniform load.

- iv. To ensure curbside drainage, (1) a 6 inch wide by 3 inch high clear gutter space shall be provided along the entire length of the parklet adjacent to the curb to allow water flow and (2) any openings at either end of the deck shall be covered with screens to prevent debris buildup beneath the deck and in the gutter. A support beam flush with and parallel to the curb face at the parklet edge is permissible.
 - v. The maximum gap in between decking and planks is ½ an inch.
 - vi. The maximum gap between the deck and the curb is ¼ inch.
 - vii. The maximum differential between the deck and the height of the curb is ¼ inch.
 - viii. Any vertical post attached to the decking shall not exceed 7 feet in height and shall not be placed closer than 6 feet to another vertical post. No other vertical member attached to the decking (e.g., guards, barriers, Plexiglas partitions), if permitted by the County Department of Public Health's Safer at Home Order, shall exceed 7 feet in height.
 - ix. The deck shall not have a roof, trellis, or other overhead shelter other than a canopy or umbrella authorized by Section 55(f).
 - x. Compliance with Americans with Disabilities Act 2010 Standards accessibility requirements
- l. Compliance with any other design or safety specification(s) required by regulations promulgated pursuant to Section 65.

57. To the extent the City authorizes a parking lane closure for an entire City block or segments thereof, the City reserves the right to undertake installation of the traffic barriers required by Section 56(g). An eligible business otherwise remains responsible for installing and complying with the design and safety specifications set forth in Section 56, unless otherwise agreed to by the City.

58. No person shall park in any public parking space or loading space that is utilized as a parklet or that is otherwise part of a parking lane that the City authorized to be closed for use as common area.

59. Sections 3.12.360, 4.68.040, 5.06.020, 6.116.010, and provisions of Article IX of the Santa Monica Municipal Code, or any conditions to permits previously issued by the City, including, but not limited to, parking requirements (except for those relating to accessible parking) and maximum floor area ratio, are hereby temporarily suspended to the extent necessary to accommodate temporary parklet use authorized by this Order. Notwithstanding the foregoing, eligible businesses shall comply with the requirements of Santa Monica Municipal Code 9.31.060, 9.31.070, 9.31.080, and 9.31.340, to the extent applicable to that eligible business.

60. If a tenant has granted consent under Section 55(n), nothing in this Order relieves that tenant from any obligation or laws relating to any consent required of the property owner.

61. The Director of the Community Development Department or designee shall be authorized to draft and enter into a temporary outdoor encroachment agreement with an applicant (either an individual eligible business or a Business Improvement District) and may choose to enter into such agreement on such terms as the Director or designee deems necessary and to require the submission of additional information or supporting data to ensure ongoing protection of public health and safety of the City, including, but not limited to, a site plan. The Director of the Community Development Department or designee retains the discretion to decline to enter into a temporary outdoor encroachment agreement for any reason, including, if the location of the proposed parklet interferes with a planned or future City project. In lieu of a temporary outdoor encroachment agreement, the Director of the Community Development Department or designee is authorized to issue a permit for parklet use as authorized by this Order.

62. No earlier than November 1, 2020 and after the City has provided 30 days notice to eligible businesses that have entered into a temporary outdoor encroachment agreement or, if applicable, obtained a temporary permit for outdoor eligible business activities as authorized by this Order, the City is authorized to assess a monthly fee for use of a parklet to eligible businesses. Such a fee shall (i) be due on the first of each month and, if not received by the City within three days after it is due, be subject to a 10% late charge; (ii) be based on the square footage of the parklet, and (iii) comply with the rates for “Outdoor Dining Area without a Barrier,” as adjusted annually in accordance with the Consumer Price Index, as set forth in Resolution No. 10586 (CCS), adopted by the City Council on June 21, 2011, regardless of whether the eligible business is conducting outdoor dining as opposed to other eligible business activities in the parklet. Notwithstanding the foregoing, the City may not assess a fee for any month if, as of the first of that month, the County Department of Public Health’s Safer at Home Order has not authorized the particular eligible business to resume indoor operations at 50% or greater occupancy. For purposes of clarity, the monthly rate per square foot for “Outdoor Dining Area without a Barrier” in 2020 is as follows:

Location	Outdoor Dining Area without a Barrier
Transit Mall (Santa Monica Boulevard/Broadway)	\$2.66
Ocean Avenue	\$2.48
Montana Avenue	\$2.20
Wilshire Boulevard	\$2.12
Main Street	\$2.12
Ocean Park Boulevard	\$2.12
Pico Boulevard	\$2.12
Other Streets	\$2.12

63. A pilot program parklet may serve as a parklet in accordance with and during the term of this Order, provided its operator complies with the conditions set forth in Section 55.

64. Any eligible business that has undertaken construction of a structure after the issuance of the Second Revised Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency on June 23, 2020 but prior to the effective date of this Order that does not comply with the design and safety specifications set forth in Section 56(k) shall have 60 days after the effective date of this Order to bring the structure into compliance with the design and safety specifications for a deck set forth in Section 56(k). Failure to comply with this deadline may lead to an enforcement action under Chapter 9.48 or other action under Chapter 8.08 of the Santa Monica Municipal Code, in addition to or in lieu of revocation of parklet use as provided in Section 66. The City, however, reserves the right to impose a shorter deadline than 60 days if the City determines, in its sole and complete discretion, that a structure presents a safety hazard and that a shorter deadline is therefore necessary. The City shall notify the eligible business in writing of any such shorter deadline.

65. The Director of the Community Development Department or designee may promulgate regulations to implement Sections 52 through 64 of this Order. Such regulations may include, but are not limited to, the imposition of an application or permit fee, restrictions on hours of operation, additional conditions, or additional design and safety specifications for use or operation of the temporary parklet authorized by this Order.

66. The City, in its sole and complete discretion, may suspend or revoke any parklet use authorized by Sections 52 through 67 of this Order, for, among other things, any failure to comply with: (a) the conditions as set forth in Section 55; (b) the design and safety specifications set forth in Section 56; (c) the payment provision in Section 62; (d) the deadlines set forth in Section 65; (e) any regulations issued pursuant to Section 65 of this Order, or (f) any other applicable law.

67. In addition to or in lieu of any suspension or revocation pursuant to Section 66, Sections 52 through 56, Section 58, and any regulations promulgated under Section 65 of this Order (collectively, the “temporary use restrictions”) shall be enforceable by an Enforcement Officer, as that term is defined by Santa Monica Municipal Code Section 1.09.020, through the issuance of an administrative citations in accordance with Chapter 1.09 of the Santa Monica Municipal Code. Pursuant to Section 1.09.040 of the Santa Monica Municipal Code, the amount of the fine for a violation of any provision of the temporary use restrictions by an eligible business shall be: \$500 for the first violation; \$750 for a second violation committed within one year for the first violation; and \$1000 for a third violation or subsequent violations committed within one year of the first violation. Each day or portion of a day that any person violates or continues to violate any provision of the temporary use restrictions constitutes a separate violation and may be charged and punished separately.

Temporary Use of Private Outdoor Space

68. The definitions in Santa Monica Municipal Code Section 9.52.020 apply to the words and phrases used in Sections 68 through 78 of this Order. In addition, as used in Sections 68 through 78 of this Order:

- a. “Eligible business” means the business has a current business license with the City and has received any necessary entitlements from the City to operate and the use is a non-residential use classification and is permitted or conditionally permitted in the district, other than a liquor store or automobile/vehicle service and repair, minor or major, as those terms are defined by Santa Monica Municipal Code Section 9.51.030.
- b. “Private outdoor space” means all or a portion of a parking lot, courtyard, plaza, or other private open space area either owned by the eligible business or temporarily used by the eligible business as authorized by this Order. The private outdoor space must be on the same parcel or a adjacent parcel immediately adjacent to the eligible business..
- c. “Restaurants” mean restaurants, full-service, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(b), or restaurants, limited-service and take-out, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(8)(c).

69. Sections 68 through 78 of this Order apply to legally established eligible businesses that have obtained a temporary use of private outdoor space permit for use of private outdoor space. The Director of the Community Development Department or designee shall be authorized to issue a temporary use of private outdoor space permit for use of private outdoor space as authorized by this Order and to require the submission of additional information or supporting data from the eligible business to ensure ongoing protection of public health and safety of the City, including, but not limited to, a site plan.

70. Eligible businesses that are permitted to open by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health’s Safer at Home Order, including any amendments and successors thereto, and that do open in accordance with such orders and any and all social distancing and infection control protocols imposed by such orders, shall be permitted to use any private outdoor space in accordance with the conditions set forth in Section 71.

71. An eligible business may utilize private outdoor space subject to all of the following conditions:

- a. The eligible business must obtain a temporary use of private outdoor space permit for use of private outdoor space as authorized by this Order. For any eligible businesses that commenced use of private outdoor space following the issuance of the Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency on May 29, 2020 and prior to the effective date of this Order, that eligible business must obtain a temporary

use permit on or before September 8, 2020 to continue to use the private outdoor space. Any certificate issued by the City for the temporary use of private outdoor space shall be displayed by the eligible business during business hours.

- b. All eligible business activity must be conducted in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto.
- c. Eligible business activity as authorized by this Order shall be conducted as a temporary accessory use to a legally established business that is located on the parcel or on an adjacent parcel. Nothing in this Order shall be considered an entitlement or permit for use of an outdoor dining and seating area, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(9), or to confer any vested rights to any ongoing or continuing activities beyond the expiration of this Order .
- d. Alcohol may be served in the private outdoor space only by restaurants that:
 - (i) have obtained and are operating under a license to sell alcoholic beverages from ABC; and
 - (ii) have obtained and are operating under a Conditional Use Permit or Alcohol Exemption issued by the City, or are operating as an existing alcohol outlet without a Conditional Use Permit pursuant to Section 9.31.040 of the Santa Monica Municipal Code. Sales shall be conducted in accordance with all requirements and conditions set forth in such licenses and permits, as may be modified by any Notices of Regulatory Relief issued by ABC, the Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring a Local Emergency issued on March 21, 2020, Interim Zoning Ordinance Numbers 2636 (CCS) and 2637, adopted by the City Council on May 12, 2020, and any successors thereto.
- e. Any furnishing, signs, temporary barriers, or any other temporary structure used for eligible business activity in a private outdoor space shall not block any portion of the full width of any legal exit from the building or any exit path from such legal exit to the public right of way. A minimum of a 44-inch wide exit path is required to be maintained from each legal exit from the building to the public right of way.
- f. Canopies in the private outdoor space are permitted so long as the canopy (i) has all sides open (i.e., it cannot be an enclosed tent), (ii) is sufficiently secured to meet wind load requirements, (iii) does not exceed 700 square feet, and (iv) is not utilized in close proximity to a propane heater (e.g., a propane heater may not be placed underneath a canopy). Umbrellas utilized in the private outdoor space shall be secured and maintain the height clearance for pedestrian passage.
- g. Propane heaters in the private outdoor space are permitted so long as the eligible business (i) has an existing or obtains a propane heater permit from the Santa Monica Fire Department, and (ii) complies with the Santa Monica Fire Department's Fire Prevention Policy Number 1-9 on Portable Propane Heaters.

Table lamps using liquid fuel, candles, or any fixtures other than a propane heater using an open flame are not permitted.

- h. Any outdoor dining in the private outdoor space is for sit-down food and beverage service only; no stand-up service is permitted.
- i. No structure or enclosure to accommodate the storage of trash or garbage shall be erected or placed on the public sidewalk or right-of-way.
- j. Hours of operation of the eligible business activity shall not exceed the hours of operation of the associated eligible business, subject to limitations on alcohol sales set forth in all applicable permits, license, and regulations.
- k. All eligible business activity shall be in compliance with the noise restrictions in Chapter 4.12 of the Santa Monica Municipal Code.
- l. All forms of speaker amplification are prohibited in association with the private outdoor space.
- m. The eligible business shall obtain any required building permits for any construction in the private outdoor space utilized for outdoor eligible business activities, including, but not limited to, (i) any building over 120 square feet; (ii) any building taller than 14 feet in height; (iii) any detached deck or platform taller than 30 inches in height; (iv) any alteration of electric wiring, and (v) any plumbing or mechanical connections. If applicable, the eligible business shall also obtain any required approval from the Landmarks Commission, or the Secretary to the Commission if permitted under Resolution Number 14-002 (LCS), for construction in the private outdoor space. The approval by the Landmarks Commission or Secretary and the issuance of a building permit for any construction in a private outdoor space shall not be considered an entitlement or permit for use of an outdoor dining and seating area, as that term is defined by Santa Monica Municipal Code Section 9.51.030(B)(9), or to confer any vested rights to any ongoing or continuing activities or use of any newly constructed structure beyond the expiration of this Order.
- n. The eligible business may construct a temporary detached deck in the private outdoor space without obtaining a building permit so long as any such deck complies with the following design and safety specifications:
 - i. The deck shall have a non-slippery surface; loose material (such as sand or gravel) cannot be used in the parklet.
 - ii. The deck shall be designed and constructed to support 100 lb per square feet live uniform load.
 - iii. To ensure drainage, any openings at either end of the deck shall be covered with screens to prevent debris buildup beneath the deck.

- iv. The maximum gap in between decking and planks is ½ an inch.
 - v. Any vertical post attached to the decking shall not exceed 7 feet in height and shall not be placed closer than 6 feet to another vertical post. No other vertical member attached to the decking (e.g., guards, barriers, Plexiglas partitions), if permitted by the County Department of Public Health's Safer at Home Order, shall exceed 7 feet in height.
 - vi. The deck shall not have a roof, trellis, or other overhead shelter other than a canopy or umbrella authorized by subsection 71(f).
 - vii. Compliance with Americans with Disabilities Act 2010 Standards accessibility requirements
- o. Regardless of whether a building permit for any new construction in the private outdoor space is required or obtained, the City reserves the right to require the eligible business to remove any new construction in the private outdoor space, including, but not limited to, the temporary deck authorized by subsection n, following the expiration of this Order for any reason, including that the structure fails to comply with any provisions of Article IX of the Santa Monica Municipal Code, or any conditions to permits previously issued by the City, including, but not limited to, parking requirements and maximum floor area ratio that are temporarily suspended under Section 72 of this Order. The construction of a temporary deck or other structure in the private outdoor space does not confer any vested rights to any ongoing or continuing activities or use of such a deck or structure beyond the expiration of this Order.
- p. Any outdoor eligible business activity area established by conversion of parking areas or other private outdoor space where there may be vehicle intrusion shall provide for safe separation of the outdoor eligible business activity area from the remaining parking area or other private outdoor space where there may be vehicle intrusion, such as by the installation of large planters or other appropriate barrier, so that the outdoor eligible business activity space is sufficiently protected from vehicle intrusion. No accessible parking spaces (ADA spaces), access aisle, or path of travel shall be converted. In no event shall any such converted private outdoor space area used for outdoor eligible business activity block or cause any obstruction that would prevent parked vehicles from exiting the parking area. In no event shall any barrier used to create safe separation block any portion of the full width of any legal exit from the building or any exit path from such legal exit to the public right of way. A minimum of a 44-inch wide exit path is required to be maintained from each legal exit from the building to the public right of way.
- q. The area used for outdoor eligible business activities authorized by this Order (including, as applicable, any eligible business activities on a sidewalk or in a parklet) may not exceed the area necessary, in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at

Home order, including any amendments and successors thereto, to permit the combined occupancy of inside eligible business and outdoor eligible business activity to match the maximum occupancy of the eligible business, prior to imposition of the social distancing and infection control protocols.

- r. All merchandise or services displayed in the private outdoor space shall be of the same types ordinarily sold indoors at the associated eligible business.
- s. The eligible business shall obtain prior written consent from the property owner or tenant of the private outdoor space and furnish such consent to the City upon request.
- t. Compliance with all applicable laws and regulations, including, but not limited to, the American with Disabilities Act.
- u. Compliance with any other condition(s) required by regulations promulgated pursuant to Section 76.

72. Provisions of Article IX of the Santa Monica Municipal Code, or any conditions to permits previously issued by the City, including, but not limited to, parking requirements (except for those relating to accessible parking) and maximum floor area ratio, are hereby temporarily suspended to the extent necessary to accommodate temporary outdoor eligible business activities authorized by this Order.

73. Any eligible business that has undertaken construction in a private outdoor space after the issuance of the Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency on May 29, 2020 without obtaining a required building permit shall have (i) 21 days from the effective date of this Order to submit a complete permit application; (ii) 45 days thereafter to obtain a permit; and (iii) 30 days after permit issuance to obtain final inspection approval. Failure to comply with these deadlines may lead to an enforcement action under Chapter 9.48 or other action under Chapter 8.08 of the Santa Monica Municipal Code, in addition to or in lieu of revocation as provided in Section 77.

74. Notwithstanding anything to the contrary in Article VIII or Article IX of the Santa Monica Municipal Code and any fee schedule resolutions promulgated pursuant to those Articles or the authority set forth in Santa Monica Municipal Code Section 2.27.010, the permit and plan review fees are hereby waived for any eligible business that (i) undertook construction in private outdoor space after the issuance of the Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency on May 29, 2020 without obtaining a required building permit, and (ii) received a notice of violation from the City regarding the unpermitted construction in the private outdoor space on or before August 21, 2020.

75. Nothing in this Order relieves an eligible business from any obligations or laws requiring consent of adjacent building owners or tenants for use of private outdoor space. Nothing in this Order compels a landlord to permit a tenant eligible business to expand its business to a private

open space. If a tenant has granted consent under Section 71(s), nothing in this Order relieves that tenant from any obligation or laws relating to any consent required of the property owner.

76. The Director of the Community Development Department or designee may promulgate regulations to implement Sections 68 through 75 of this Order. Such regulations may include, but are not limited to, the imposition of an application or permit fee, restrictions on hours of operation, and additional conditions for conducting the temporary outdoor eligible business activity use authorized by this Order.

77. The City, in its sole and complete discretion, may suspend or revoke any temporary use of private outdoor space authorized by Sections 68 through 78 of this Order for, among other things, any failure to comply with: (a) the conditions as set forth in Section 71 of this Order; (b) any regulations issued pursuant to Section 76 of this Order, (c) the deadlines set forth in Section 73 or (d) any other applicable law.

78. In addition to or in lieu of any suspension or revocation pursuant to Section 77, Sections 68 through 71 and any regulations promulgated under Section 76 of this Order (collectively, the “temporary use restrictions”) shall be enforceable by an Enforcement Officer, as that term is defined by Santa Monica Municipal Code Section 1.09.020, through the issuance of an administrative citations in accordance with Chapter 1.09 of the Santa Monica Municipal Code. Pursuant to Section 1.09.040 of the Santa Monica Municipal Code, the amount of the fine for a violation of any provision of the temporary use restrictions by an eligible business shall be: \$500 for the first violation; \$750 for a second violation committed within one year for the first violation; and \$1000 for a third violation or subsequent violations committed within one year of the first violation. Each day or portion of a day that any person violates or continues to violate any provision of the temporary use restrictions constitutes a separate violation and may be charged and punished separately.

Temporary Use of Certain Public Spaces for Gym and Fitness Establishments

79. The definitions in Santa Monica Municipal Code Section 9.52.020 apply to the words and phrases used in Sections 79 through 83 of this Order. In addition, as used in Sections 79 through 83 of this Order,

- a. “Gym and fitness establishments” shall mean gyms, exercise clubs, or studios offering martial arts, physical exercise, yoga training, and similar types of instruction to classes and groups.
- b. “Santa Monica Pier” shall have the same definition as in Santa Monica Municipal Code Section 6.36.020.

80. The Director of the Community Development Department or designee shall be authorized to draft and enter into a temporary license agreement authorizing the temporary use of portions of certain public parking facilities or the Santa Monica Pier, as designated by the Director of the Community Development Department or designee, for temporary use by gyms and fitness establishments on such terms as the Director or designee deems necessary. At a minimum, however, any such license agreement shall contain the following conditions of use:

- a. The gym or fitness establishments eligible to use the designated portions of the public parking facility or Santa Monica Pier must have a current business license with the City;
- b. All activity must be conducted in accordance with all social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto;
- c. Any canopy (i) must have all sides open (i.e., it cannot be an enclosed tent), (ii) must be sufficiently secured to meet wind load requirements, (iii) may not be utilized in close proximity to a propane heater (e.g., a propane heater may not be placed underneath a canopy); and (iv) must be in compliance with any required building permit if the size of the canopy is 700 square feet or greater;
- d. Propane heaters in the private outdoor space are permitted so long as the eligible business (i) has an existing or obtains a propane heater permit from the Santa Monica Fire Department, and (ii) complies with the Santa Monica Fire Department's Fire Prevention Policy Number 1-9 on Portable Propane Heaters;
- e. Table lamps using liquid fuel, candles, or any fixtures other than a propane heater using an open flame are not permitted; and
- f. Compliance with all applicable laws and regulations, including, but not limited to, the American with Disabilities Act.

81. The Director of the Community Development Department or designee may promulgate regulations to implement Sections 79 through 80 of this Order. Such regulations may include, but are not limited to, restrictions on hours of operation, restrictions on the use of amplification equipment, boom boxes, bull horns or whistles, and additional conditions for the use of the designated portions of the public parking facility or Santa Monica Pier by gym or fitness establishments.

82. Sections 3.12.360, 4.68.040, 5.06.020, 6.116.010, and provisions of Article IX of the Santa Monica Municipal Code, or any conditions to permits previously issued by the City, including, but not limited to, parking requirements (except for those relating to accessible parking) and maximum floor area ratio, are hereby temporarily suspended to the extent necessary to accommodate the temporary use of portions of public parking facilities or the Santa Monica Pier for gym and fitness establishments.

83. Nothing in this Order shall be considered an entitlement or permit for permanent use of portions of public parking facilities or the Santa Monica Pier for gym and fitness establishments, or to confer any vested rights to any ongoing or continuing activities beyond the expiration of this Order.

Temporary Use Permit

84. Business Improvement Districts and individual eligible businesses that have obtained a Temporary Use Permit in accordance with Santa Monica Municipal Code Chapter 9.44 may conduct sidewalk sales and other seasonal sales in accordance with Santa Monica Municipal Code 9.31.370, Temporary Uses and Seasonal Sales, without otherwise complying with the provisions of this Order.

85. All processing time frames and fees for Temporary Use Permits for conducting sidewalk sales and other seasonal sales in accordance with Santa Monica Municipal Code 9.31.370 are hereby waived for any applications submitted before December 31, 2020.

Pier

86. This Order supersedes and replaces the Second Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued March 16, 2020.

87. For purposes of Sections 86 to 88 of this Order, the Santa Monica Pier shall mean the City property that comprises the Santa Monica Municipal Pier and the Newcomb Pier.

88. The Santa Monica Pier shall reopen as of June 24, 2020, subject to any conditions on phrased reopening of the Santa Monica Pier required by the Santa Monica Pier administrator and applicable State Executive Orders, State Health Officer Orders, and the County Department of Public Health's Safer at Home Order, including any amendments and successors thereto.

GENERAL PROVISIONS

89. This Order supersedes and replaces the Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued May 29, 2020, the Revised Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued June 5, 2020, and the Second Revised Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency issued June 23, 2020.

90. This Order shall take effect immediately and, unless extended or expressly superseded by a duly enacted Ordinance of the City Council or by a further Order by the Director of Emergency Services: (a) Sections 1 through 8, and 10 through 12 shall remain in effect until August 31, 2020; (b) Sections 9 and Sections 13 through 18 shall remain in effect until October 31, 2020; (c) Sections 19 through 79 and 84 through 88 shall remain in effect while the County Department of Public Health's Safer at Home Order, including any later amendments or successors thereto, is in place plus an additional 30 days thereafter; (d) and Sections 79 through 83 shall remain in effect until December 31, 2020.

91. If any section, subsection, sentence, clause, or phrase of this Order is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Order. The Interim City Manager hereby declares that she would have issued this Executive Order, and any Supplement

or Revised Supplement to this Executive Order, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

ADOPTED this 18th day of August 2020.

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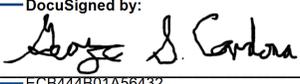
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LANE DILG
Interim City Manager
Director of Emergency Services

ATTEST:

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DENISE ANDERSON-WARREN
City Clerk

APPROVED AS TO FORM:

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GEORGE S. CARDONA
Interim City Attorney